Franco-Gallia:

Translated by

The Author of *the Account* of DENMARK.

A Hotman

Advertiſement.

AN Account of *Denmark*, as it was in the Year 1692. The Third Edition corrected.

A ſhort Narrative of the Life and Death of *John Rhinholdt*, Count *Patkul*, a Nobleman of *Livonia*, who was broke alive upon the Wheel in *Great Poland*, *Anno* 1707. Together with the Manner of his Execution. Written by the *Lutheran* Miniſter, who aſſiſted him in his laſt Hours. Faithfully tranſlated out of a *High-Dutch* Manuſcript, and now publiſh'd for the Information of Count *Gyllenborg*'s *Engliſh* Friends. By *L. M.* The Second Edition.

An Account of *Sweden*, together with an Extract of the Hiſtory of that Kingdom. By a Perſon of Note who reſided many Years there. The Third Edition.

Printed for Edward Valentine.

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Franco-Gallia:

OR, AN

ACCOUNT

OF THE

Ancient Free State

OF

FRANCE,

AND

Moſt other Parts of EUROPE, before the Loſs of their Liberties.

Written Originally in Latin *by the Famous Civilian*

FRANCIS HOTOMAN,

In the Year 1574.

And Tranſlated into Engliſh *by the Author of the* Account of DENMARK.

The SECOND EDITION, with Additions, and a *New Preface* by the Tranſlator.

LONDON:

Printed for *Edward Valentine*, at the *Queen's Head* againſt St. *Dunſtan's* Church, *Fleetſtreet*, 1721.

Franco-Gallia:

OR, AN

ACCOUNT

OF THE

a New Preface by the Translator.

L O N D O N:

Printed for E[illegible] at the Queen's Head
against St. D[illegible] Church, Fleet-Street, 1721.

The BOOKSELLER TO THE READER.

THE following Tranſlation of the Famous Hotoman's Franço-Gallia *was written in the Year* 1705, *and firſt publiſh'd in the Year* 1711. *The Author was then at a great Diſtance from* London, *and the Publiſher of his Work, for Reaſons needleſs to repeat, did not think fit to print the Prefatory Diſcourſe ſent along with the Original. But this Piece being ſeaſonable at all Times for the Peruſal of* Engliſhmen, *and more particularly at this Time, I wou'd no longer keep back from the Publick, what I more than conjecture will be acceptable to all true Lovers of their Country.*

The BOOKSELLER

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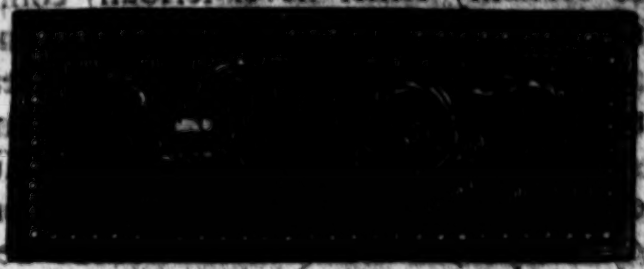

THE TRANSLATOR's PREFACE.

MANY Books and Papers have been publish'd since the late *Revolution*, tending to justify the Proceedings of the People of *England* at that happy Juncture; by setting in a true Light our just Rights and Liberties, together with the solid Foundations of our *Constitution*: Which, in truth, is not ours only, but that of almost all *Europe* besides, so wisely restor'd and establish'd (if not introduced) by the *Goths* and *Franks*, whose Descendants we are.

These Books have as constantly had some things, called *Answers*, written to

them, by Persons of different Sentiments; who certainly either never seriously consider'd, that they were thereby endeavouring to destroy their own Happiness, and overthrow her Majesty's Title to the Crown: or (if they knew what they did) presumed upon the *Lenity* of that Government they decry'd; which (were there no better Reason) ought to have recommended it to their Approbation, since it could patiently bear with such, as were doing all they could to undermine it.

Not to mention the Railing, Virulency, or personal false Reflections in many of those Answers, (which are always the Signs of a weak Cause, or a feeble Champion) some of them asserted the *Divine Right* of an *Hereditary Monarch*, and the Impiety of *Resistance* upon any Pretence whatsoever, notwithstanding any *Authority* to the contrary.

Others (and those the more judicious) deny'd positively, that sufficient Authority could be produced, to prove, that a *free People* have a *just Power* to defend themselves, by opposing their *Prince*, who endeavours to oppress and enslave them. And alledged, that whatever was said or done tending that way, proceeded from a Spirit of *Rebellion*, and *Antimonarchical Principles*.

To confute, or convince this last Sort of Arguers (the first not being worthy to have Notice taken of them) I set about translating the *Franco-Gallia* of that most Learned and Judicious *Civilian*, *Francis Hotoman*; a Grave, Sincere and Unexceptionable Author, even in the Opinion of his Adversaries. This Book gives an Account of the Ancient Free State of above Three Parts in Four of *Europe*; and has of a long time appeared to me so convincing and instructive in those important Points he handles, that I could not be idle whilst it remain'd unknown, in a manner, to *Englishmen*: who, of all People living, have the greatest Reason and Need to be thoroughly instructed in what it contains; as having, on the one hand, the most to lose, and on the other, the least Sense of their Right to that, which hitherto they seem (at least in a great measure) to have preserv'd.

It will be obvious to every Reader, that I have taken no great Pains to write elegantly. What I endeavour at, is as plain a Stile as possible, which on this Occasion I take to be the best: For since the Instruction of Mankind ought to be the principal Drift of all Writers (of History especially), whoever writes to the Capacity of most Readers, in my Opinion most fully answers the End.

I am

I am not ignorant, how tireſome and difficult a Piece of Work it is to tranſlate, nor how little valued in the World. My Experience has convinced me, that 'tis more troubleſome and teazing than to write and invent at once. The Idiom of the Language out of which one tranſlates, runs ſo in the Head, that 'tis next to impoſſible not to fall frequently into it. And the more bald and incorrect the Stile of the Original is, the more ſhall that of the Tranſlation be ſo too. Many of the Quotations in this Book are drawn from Prieſts, Monks, Friars, and Civil Lawyers, who minded more, in thoſe barbarous Ages, the Subſtance than the Stile of their Writings. And I hope theſe Conſiderations may atone for ſeveral Faults, which might be found in my Share of this Work.

But I deſire not to be miſunderſtood, as if (whilſt I am craving Favour for my ſelf) I were making any Apology for ſuch a Number of mercenary Scribblers, Animadverters, and Tranſlators, as peſter us in this Age; who generally ſpoil the good Books which fall into their Hands, and hinder others from obliging the Publick, who otherwiſe would do it to greater Advantage.

I take this Author to be one of thoſe few, that has had the good Luck to eſcape them; and I make uſe of this Occaſion to declare,

declare, that the chief Motive which induces me to send abroad this small Treatise, is a sincere desire of instructing the only Possessors of true Liberty in the World, what Right and Title they have to that Liberty; of what a great Value it is; what Misery follows the Loss of it; how easily, if Care be taken in time, it may be preserv'd: And if this either opens the Eyes, or confirms the honourable Resolutions of any of my worthy Countrymen, I have gained a glorious End; and done that in my Study, which I shou'd have promoted any other way, had I been called to it. I hope to die with the Comfort of believing, that *Old England* will continue to be a free Country, and *know* it self to be *such*; that my Friends, Relations and Children, with their Posterity, will inherit their Share of this inestimable Blessing, and that I have contributed my Part to it.

But there is one very great Discouragement under which both I, and all other Writers and Translators of Books tending to the acquiring or preserving the publick Liberty, do lie; and that is, the heavy Calumny thrown upon us, that we are all *Commonwealth-Men*: Which (in the ordinary Meaning of the Word) amounts to *Haters* of *Kingly* Government; not without broad, malicious Insinuations, that we are no great Friends of the present.

Indeed

Indeed were the *Laity* of our Nation (as too many of our *Clergy* unhappily are) to be guided by the Senſe of one of our Univerſities, ſolemnly and publickly declared by the burning of Twenty ſeven Propoſitions (ſome of them deſerving that Cenſure, but others being the very Foundation of all our Civil Rights;) I, and many like me, would appear to be very much in the wrong. But ſince the *Revolution* in Eighty eight, that we ſtand upon another and a better Bottom, tho no other than our own old one, 'tis time that our *Notions* ſhould be ſuited to our *Conſtitution*. And truly, as Matters ſtand, I have often wondred, either how ſo many of our Gentlemen, educated under ſuch Prejudices, ſhou'd retain any Senſe at all of Liberty, for *the hardeſt Leſſon is to unlearn*, or how an Education ſo diametrically oppoſite to our Bill of Rights, ſhou'd be ſo long encourag'd.

St. Chryſoſtom.

Methinks a *Civil Teſt* might be contrived, and prove very convenient to diſtinguiſh thoſe that own the *Revolution Principles*, from ſuch as Tooth and Nail oppoſe them; and at the ſame time, do fatally propagate Doctrines, which lay too heavy a Load upon *Chriſtianity* it ſelf, and make us prove our own Executioners.

The Names of *Whig* and *Tory* will, I am afraid, laſt as long among us, as thoſe

of *Guelf* and *Ghibelline* did in *Italy*. I am ſorry for it: but to ſome they become neceſſary for Diſtinction Sake; not ſo much for the Principles formerly adapted to each Name, as for particular and worſe Reaſons. For there has been ſuch chopping and changing both of Names and Principles, that we ſcarce know who is who. I think it therefore neceſſary, in order to appear in my own Colours, to make a publick Profeſſion of my *Political Faith*; not doubting but it may agree in ſeveral Particulars with that of many worthy Perſons, who are as undeſervedly aſpers'd as I am.

My Notion of a *Whig*, I mean of a real *Whig* (for the Nominal are worſe than any Sort of Men) is, That he is one who is exactly for keeping up to the Strictneſs of the true old *Gothick Conſtitution*, under the *Three Eſtates* of *King* (or *Queen*) *Lords* and *Commons*; the *Legiſlature* being ſeated in all Three together, the *Executive* entruſted with the firſt, but accountable to the whole Body of the People, in Caſe of Male Adminiſtration.

A true *Whig* is of Opinion, that the *Executive* Power has as juſt a Title to the *Allegiance* and Obedience of the Subject, according to the *Rules of known Laws enacted by the Legiſlative*, as the *Subject* has to *Protection*, *Liberty* and *Property*: And ſo on the contrary.

A true

A true *Whig* is not afraid of the Name of a *Commonwealthsman*, because so many foolish People, who know not what it means, run it down to their shame and Confusion, which these Nations fell into near Sixty Years ago, and which was *falsly* called a *Commonwealth*, frightning them out of the true Construction of the Word. But Queen *Elizabeth*, and many other of our best Princes, were not scrupulous of calling our Government a *Commonwealth*, even in their solemn Speeches to *Parliament*. And indeed if it be not one, I cannot tell by what Name properly to call it. For where in the very *Frame* of the *Constitution*, the Good of the *Whole* is taken care of by the *Whole* (as it is in our Case) the having a *King* or *Queen* at the Head of it, alters not the Case; and the softning of it by calling it a *Limited Monarchy*, seems a Kind of Contradiction in Terms, invented to please some weak and doubting Persons.

And because some of our *Princes* in this last Age, did their utmost Endeavour to destroy this Union and Harmony of the *Three Estates*, and to be *arbitrary* or *independent*, they ought to be looked upon as the *Aggressors* upon our Constitution.

This drove the other *Two Estates* (for the Sake of the publick Preservation) into the fatal Necessity of providing for themselves;

selves; and when once the Wheel was set a running, 'twas not in the Power of Man to stop it just where it ought to have stopp'd. This is so ordinary in all violent Motions, whether mechanick or political, that no body can wonder at it.

But no wise Man approved of the ill Effects of those violent Motions either way, could they have help'd them. Yet it must be owned, they have (as often as used, thro an extraordinary Piece of good Fortune) brought us back to our old Constitution again, which else had been lost; for there are numberless Instances in History, of a Downfal from a State of *Liberty* to a *Tyranny*, but very few of a Recovery of *Liberty* from *Tyranny*, if this last have had any Length of Time to fix it self and take Root.

Let all such, who either thro Interest or Ignorance are Adorers of *absolute Monarchy*, say what they please; an *English Whig* can never be so unjust to his Country, and to right Reason, as not to be of Opinion, that in all Civil Commotions, which Side soever is the *wrongful Aggressor*, is accountable for all the evil Consequences. And thro the Course of his reading (tho my Lord *Clarendon*'s Books be thrown into the Heap) he finds it very difficult to observe, that ever the People of *England* took up Arms against their *Prince*, but when constrain'd

to it by a neceſſary Care of their *Liberties* and true *Conſtitution*.

'Tis certainly as much a *Treaſon* and *Rebellion* againſt this *Conſtitution*, and the *known* Laws, in a *Prince* to endeavour to break thro them, as 'tis in the *People* to riſe againſt him, whilſt he keeps within their Bounds, and does his Duty. Our Conſtitution is a Government of *Laws*, not of *Perſons*. *Allegiance* and *Protection* are Obligations that cannot ſubſiſt ſeparately; when one fails, the other falls of Courſe. The true Etymology of the word *Loyalty* (which has been ſo ſtrangely wreſted in the late Reigns) is an entire Obedience to the Prince in all his Commands according to Law; that is, to the *Laws themſelves*, to which we owe both an active and paſſive Obedience.

By the old and true Maxim, that *the King can do no Wrong*, no body is ſo fooliſh as to conclude, that he has not Strength to murder, to offer Violence to Women, or Power enough to diſpoſſeſs a Man wrongfully of his Eſtate, or that whatever he does (how wicked ſoever) is juſt: but the Meaning is, he has no *lawful Power* to do ſuch Things; and our Conſtitution conſiders no *Power* as *irreſiſtible*, but what is *lawful*.

And ſince *Religion* is become a great and univerſal Concern, and drawn into our Govern-

Government, as it affects every ſingle Man's Conſcience; tho in my private Opinion, they ought not to be mingled, nor to have any thing to do with each other; (I do not ſpeak of our Church Polity, which is Part of our State, and dependent upon it;) ſome Account muſt be given of that Matter.

Whiggiſm is not circumſcrib'd and confin'd to any one or two of the *Religions* now profeſs'd in the World, but diffuſes it ſelf among all. We have known *Jews*, *Turks*, nay, ſome Papiſts, (which I own to be a great Rarity) very great Lovers of the Conſtitution and Liberty; and were there rational Grounds to expect, that any Numbers of them could be ſo, I ſhou'd be againſt uſing Severities or Diſtinctions upon Account of Religion. For a Papiſt is not dangerous, nor ought to be ill us'd by any body, becauſe he prays to Saints, believes Purgatory, or the real Preſence in the Euchariſt, and pays Divine Worſhip to an Image or Picture, (which are the common Topicks of our Writers of Controverſy againſt the Papiſts;) but becauſe Popery ſets up a *foreign Juriſdiction paramount to our Laws*. So that a *real Papiſt* can neither be a true *Governor* of a *Proteſtant* Country, nor a true *Subject*; and beſides, is the moſt *Prieſt-ridden* Creature in the World: and (when uppermoſt) can bear with no body

that differs from him in Opinion; little considering, that whosoever is against *Liberty of Mind*, is, in effect, against *Liberty of Body* too. And therefore all Penal *Acts* of *Parliament* for Opinions *purely* religious, which have no Influence on the *State*, are so many Encroachments upon *Liberty*, whilst those which restrain Vice and Injustice are against *Licentiousness*.

I profess my self to have always been a Member of the *Church* of *England* and am for supporting it in all its *Honours*, *Privileges* and *Revenues*: but as a Christian and a *Whig*, I must have Charity for those that differ from me in *religious* Opinions, whether *Pagans*, *Turks*, *Jews*, *Papists*, *Quakers*, *Socinians*, *Presbyterians*, or others. I look upon *Bigotry* to have always been the very Bane of humane Society, and the Offspring of Interest and Ignorance, which has occasion'd most of the great Mischiefs that have afflicted Mankind. We ought no more to expect to be all of one Opinion, as to the Worship of the *Deity*, than to be all of one Colour or Stature. To stretch or narrow any Man's Conscience to the Standard of our own, is no less a Piece of Cruelty than that of *Procrustes* the Tyrant of *Attica*, who used to fit his Guests to the Length of his own Iron Bedsted, either by cutting them shorter, or racking them longer. What

juſt Reaſon can I have to be angry with, to endeavour to curb the natural Liberty, or to retrench the Civil Advantages of an honeſt Man (who follows the golden Rule, of *doing to others, as he would have others do to him*, and is willing and able to ſerve the Publick) only becauſe he thinks his Way to Heaven ſurer or ſhorter than mine? No body can tell which of us is miſtaken, till the Day of Judgment, or whether any of us be ſo (for there may be different Ways to the ſame End, and I am not for circumſcribing God Almighty's Mercy:) This I am ſure of, one ſhall meet with the ſame Poſitiveneſs in Opinion, in ſome of the Prieſts of all theſe Sects; The ſame Want of Charity, engroſſing Heaven by way of *Monopoly* to their own *Corporation*, and managing it by a joint Stock, excluſive of all others (as pernicious in Divinity as in Trade, and perhaps more) The ſame Pretences to *Miracles*, *Martyrs*, *Inſpirations*, *Merits*, *Mortifications*, *Revelations*, *Auſterity*, *Antiquity*, &c. (as all Perſons converſant with Hiſtory, or that travel, know to be true) and this *cui bono?* I think it the Honour of the Reformed Part of the Chriſtian Profeſſion, and the Church of *England* in particular, that it pretends to fewer of theſe unuſual and extraordinary Things, than any other Religion we know of in the World; being

convinced, that these are not the distinguishing Marks of the Truth of any Religion (I mean, the assuming obstinate Pretences to them are not;) and it were not amiss, if we farther enlarg'd our Charity, when we can do it with Safety, or Advantage to the State.

Let us but consider, how hard and how impolitick it is to condemn all People, but such as think of the Divinity just as we do. May not the Tables of Persecution be turn'd upon us? A *Mahometan* in *Turky* is in the right, and I (if I carry my own Religion thither) am in the Wrong. They will have it so. If the *Mahometan* comes with me to *Christendom*, I am in the right, and he in the wrong; and hate each other heartily for differing in Speculations, which ought to have no Influence on Moral Honesty. Nay, the *Mahometan* is the more charitable of the two, and does not push his Zeal so far; for the Christians have been more cruel and severe in this Point than all the World besides. Surely Reprizals may be made upon us; as *Calvin* burnt *Servetus* at *Geneva*, Queen *Mary* burnt *Cranmer* at *London*. I am sorry I cannot readily find a more exact Parallel. The Sword cuts with both Edges. Why, I pray you, may we not all be Fellow-Citizens of the World? And provided it be not the Principle of one or more Religions

ligions to extirpate all others, and to turn Perſecutors when they get Power (for ſuch are not to be endured;) I ſay, why ſhou'd we offer to hinder any Man from doing with his own Soul what he thinks fitting? Why ſhou'd we not make uſe of his Body, Eſtate, and Underſtanding, for the publick Good? Let a Man's Life, Subſtance, and Liberty be under the Protection of the Laws; and I dare anſwer for him (whilſt his Stake is among us) he will never be in a different Intereſt, nor willing to quit this Protection, or to exchange it for *Poverty*, *Slavery*, and *Miſery*.

The thriving of any one *ſingle Perſon* by honeſt Means, is the Thriving of the *Commonwealth* wherein he reſides. And in what Place ſoever of the World ſuch Encouragement is given, as that in it one may ſecurely and peaceably enjoy *Property* and *Liberty*, both of *Mind* and *Body*; 'tis impoſſible but that Place muſt flouriſh in *Riches*, and in *People*, which are the *trueſt Riches* of any Country.

But as, on the one hand, a true *Whig* thinks that all Opinions purely ſpiritual and notional ought to be indulg'd; ſo on the other, he is for *ſeverely puniſhing* all *Immoralities*, *Breach* of *Laws*, *Violence* and *Injuſtice*. A Miniſter's Tythes are as much his Right, as any Layman's Eſtate can be his; and no Pretence of Religion or Conſcience can warrant the ſubſtracting of them,

whilſt the Law is in Being which makes them payable; For a *Whig* is far from the Opinion, that they are due by any other Title. It wou'd make a Man's Ears tingle, to hear the *Divine Right* inſiſted upon for any *human Inſtitutions*; and to find God *Almighty* brought in as a Principal there, where there is no Neceſſity for it. To affirm, that *Monarchy*, *Epiſcopacy*, *Synods*, *Tythes*, the *Hereditary Succeſſion* to the *Crown*, &c. are *Jure Divino*; is to cram them down a Man's Throat; and tell him in plain Terms, that he muſt ſubmit to any of them under all Inconveniencies, whether the Laws of his Country are for it or againſt it. Every *Whig* owns *Submiſſion* to Government to be an *Ordinance* of God. *Submit your ſelves to every Ordinance of Man, for the Lord's Sake*, ſays the Apoſtle. Where (by the way) pray take notice, he calls them *Ordinances of Man*; and gives you the true Notion, how far any thing can be ſaid to be *Jure Divino*: which is far ſhort of what your high-flown Aſſertors of the *Jus Divinum* wou'd carry it, and proves as ſtrongly for a *Republican* Government as a *Monarchical*; tho in truth it affects neither, where the very Ends of Government are deſtroyed.

A right *Whig* looks upon *frequent Parliaments* as ſuch a *fundamental* Part of the Conſtitution, that even no *Parliament* can

part

part with this Right. *High Whiggiſm* is for *Annual* Parliaments, and *Low Whiggiſm* for *Triennial*, with annual Meetings. I leave it to every Man's Judgment, which of theſe wou'd be the cruelt Repreſentative; wou'd ſooneſt eaſe the Houſe of that Number of Members that have Offices and Employments, or take Penſions from the Court; is leaſt liable to Corruption; wou'd prevent exorbitant Expence, and ſooneſt deſtroy the pernicious Practice of drinking and bribing for Elections, or is moſt conformable to ancient Cuſtom. The Law that lately paſs'd with ſo much Struggle for *Triennial* Parliaments ſhall content me, till the *Legiſlative* ſhall think fit to make them *Annual*.

But methinks (and this I write with great Submiſſion and Deference) that (ſince the paſſing that Act) it ſeems inconſiſtent with the Reaſon of the thing, and prepoſterous, for the *firſt* Parliament after any Prince's *Acceſſion* to the *Crown*, to give the publick Revenue *ariſing by Taxes*, for a longer time than that *Parliament's own Duration*. I cannot ſee why the Members of the *firſt* Parliament ſhou'd (as the Caſe now ſtands) engroſs to themſelves all the Power of giving, as well as all the Merit and Rewards due to ſuch a Gift: and why *ſucceeding* Parliaments ſhou'd not, in their turn, have it in their

Power to oblige the Prince, or to streighten him, if they saw Occasion; and pare his Nails, if they were convinced he made *ill Use* of such a *Revenue*. I am sure we have had Instances of this Kind; and a wise Body of Senators ought always to provide against the worst that might happen. The *Honey-Moon* of *Government* is a dangerous Season; the Rights and Liberties of the People run a greater Risk at that time, thro their own Representatives Compliments and Compliances, than they are ever likely to do during that Reign: and 'tis safer to break this Practice, when we have the Prospect of a good and gracious Prince upon the Throne, than when we have an inflexible Person, who thinks every Offer an Affront, which comes not up to the Height of what his Predecessor had, without considering whether it were well or ill done at first.

The Revenues of our Kings, for many Ages, arose out of their *Crown-Lands*; Taxes on the Subject were raised only for publick Exigencies. But since we have turn'd the Stream, and been so free of Revenues for Life, arising from *Impositions* and *Taxes*, we have given Occasion to our Princes to dispose of their *Crown-Lands*; and depend for Maintenance of their Families on such a Sort of Income, as is thought unjust and ungodly in most Parts of the World,

World, but in *Christendom*: for many of the arbitrary *Eastern* Monarchs think so, and will not eat the Produce of such a Revenue. Now since Matters are brought to this pass, 'tis plain that our Princes must subsist suitable to their high State and Condition, in the best manner we are able to provide for them. And whilst the *Calling* and *Duration* of Parliaments was *precarious*, it might indeed be an *Act of Imprudence*, tho not of *Injustice*, for any *one Parliament* to settle such a Sort of *Revenue* for Life on the Prince: But at present, when all the World knows the *utmost Extent* of a Parliament's *possible* Duration, it seems disagreeable to Reason, and an Encroachment upon the Right of *succeeding* Parliaments (for the future) for any *one Parliament* to do that which *another* cannot undo, or has not Power to do in its turn.

An Old *Whig* is for chusing such Sort of *Representatives* to serve in Parliament, as have *Estates* in the Kingdom; and those not fleeting ones, which may be sent beyond Sea by Bills of Exchange by every Pacquet Boat, but fix'd and permanent. To which end, every Merchant, Banker, or other money'd Man, who is ambitious of serving his Country as a *Senator*, shou'd have also a competent, visible *Land Estate*, as a Pledge to his *Electors* that he intends to abide by them, and has the same Interest

merit with

with theirs in the publick Taxes, Gains and Losses? I have heard and weighed the Arguments of those who, in Opposition to this, urged the Unfitness of such, whose Lands were engaged in Debts and Mortgages, to serve in Parliament, in comparison with the *monyed Man* who had no *Land*. But those Arguments never convinced me.

No Man can be a sincere Lover of Liberty, that is not for increasing and communicating that Blessing to all People; and therefore the giving or restoring it not only to our Brethren of *Scotland* and *Ireland*, but even to *France* it self (were it in our Power) is one of the principal Articles of *Whiggism*. The Ease and Advantage which would be gain'd by *uniting* our own Three Kingdoms upon equal Terms (for upon unequal it would be no *Union*) is so visible, that if we had not the Example of those Masters of the World, the *Romans*, before our Eyes, one would wonder that our own Experience (in the Instance of uniting *Wales* to *England*) should not convince us, that altho both Sides would incredibly gain by it, yet the rich and opulent Country, to which such an Addition is made, would be the greater Gainer. 'Tis so much more desirable and *secure* to govern by *Love* and *common Interest*, than by *Force*; to expect *Comfort* and *Assistance*, in Times of Danger, from our next Neighbours, than to find them

them at such a time a *heavy* Clog upon the Wheels of our Government, and be in dread lest they should take that Occasion to shake off an uneasy Yoak: or to have as much need of entertaining a *standing* Army against our *Brethren*, as against our known and inveterate *Enemies*; that certainly whoever can oppose so publick and apparent Good, must be esteem'd either *ignorant* to a strange Degree, or to have *other* Designs in View, which he would willingly have brought to Light.

I look upon her Majesty's asserting the Liberties and Privileges of the *Free Cities in Germany*, an Action which will shine in History as bright (at least) as her giving away her first Fruits and Tenths: To the Merit of which last, some have assumingly enough ascribed all the Successes she has hitherto been blessed with; as if *one Set of Men* were the *peculiar* Care of Providence and all others (even *Kings* and *Princes*) were no otherwise fit to be considered by *God Almighty*, or Posterity, than according to their *Kindness* to them. But it has been generally represented so, where Priests are the Historians. From the first Kings in the World down to these Days, many Instances might be given of very wicked Princes, who have been extravagantly commended; and many excellent ones, whose Memories lie overwhelmed with Loads of Curses and Calum-

Calumny, just as they proved Favourers or Discountenancers of High-Church, without regard to their other Virtues or Vices; for High-Church is to be found in all Religions and Sects, from the Pagan down to the Presbyterian; and is equally detrimental in every one of them.

A Genuine *Whig* is for promoting a *general Naturalization*, upon the firm Belief, that whoever comes to be incorporated into us, feels his Share of all our Advantages and Disadvantages, and consequently can have no Interest but that of the Publick; to which he will always be a Support to the best of his Power, by his *Person*, *Substance* and *Advice*. And if it be a Truth (which few will make a Doubt of) that we are not one *third* Part peopled (though we are better so in Proportion than any other Part of *Europe*, *Holland* excepted); and that our Stock of Men decreases daily thro our Wars, Plantations, and Sea-Voyages; that the ordinary Course of Propagation (even in Times of continued Peace and Health) cou'd not in many Ages supply us with the Numbers we want; that the Security of Civil and Religious Liberty, and of Property, which thro God's great Mercy is firmly establish'd among us, will invite new Comers as fast as we can entertain them; that most of the rest of the World groans under the Weight of *Tyranny*,

which

which will cause all that have Substance, and a Sense of Honour and Liberty, to fly to Places of Shelter; which consequently would thoroughly people us with useful and profitable Hands in a few Years. What should hinder us from an Act of *General Naturalization*? Especially when we consider, that no *private* Acts of that Kind are refused; but the Expence is so great, that few attempt to procure them, and the Benefit which the Publick receives thereby is inconsiderable.

Experience has shown us the Folly and Falsity of those plausible Insinuations, that such a Naturalization would take the Bread out of *Englishmen's* Mouths. We are convinced, that the greater Number of Workmen of one Trade there is in any Town, the more does that Town thrive; the greater will be the *Demand* of the Manufacture, and the *Vent* to foreign Parts, and the quicker *Circulation* of the *Gain*. The Consumption of the *Produce* both of *Land* and *Industry* increases visibly in Towns full of People; nay, the more shall every particular industrious Person thrive in such a Place; tho indeed *Drones* and *Idlers* will not find their Account, who would fain support their own and their Families superfluous Expences at their Neighbour's Cost; who make one or two Day's Labour provide for four Days Extravagancies. And this is the com-

common Calamity of most of our *Corporation Towns*, whose Inhabitants do all they can to discourage Plenty, Industry and Population; and will not admit of Strangers but upon too hard Terms, thro the false Notion, that they themselves, their Children and Apprentices, have the only Right to squander their Town's Revenue, and to get, at their own Rates, all that is to be gotten within their Precincts, or in the Neighbourhood. And therefore such Towns (through the Mischief arising by *Combinations* and *By-Laws*) are at best at a Stand; very few in a thriving Condition (and those are where the *By-Laws* are least *restrictive*) but *most* throughout *England* fall to visible Decay, whilst new Villages *not* incorporated, or more liberal of their Privileges, grow up in their stead; till, in Procels of Time, the first Sort will become almost as desolate as *Old Sarum*, and will as well deserve to lose their Right of sending Representatives to Parliament. For certainly a *Waste* or a *Desart* has no Right to be represented, nor by our original Constitution was ever intended to be: yet I would by no means have those Deputies lost to the Commons, but transferr'd to wiser, more industrious, and better peopled Places, worthy (thro their Numbers and Wealth) of being represented.

A *Whig*

A *Whig* is against the raising or keeping up a *Standing Army* in Time of Peace: but with this Distinction, that if at any time an *Army* (tho even in Time of Peace) shou'd be necessary to the Support of this very Maxim, a *Whig* is not for being too hasty to destroy that which is to be the Defender of his Liberty. I desire to be well understood. Suppose then, that Persons, whose known Principle and Practice it has been (during the Attempts for arbitrary Government) to plead for and promote such an Army in Time of Peace, as wou'd be subservient to the Will of a Tyrant, and contribute towards the enslaving the Nation; shou'd, under a *legal Government* (yet before the *Ferment* of the People was appeas'd) cry down a *Standing Army* in Time of Peace: I shou'd shrewdly suspect, that the Principles of such Persons are not changed, but that either they like not the Hands that *Army* is in, or the *Cause* which it espouses, and look upon it as an Obstruction to *another* Sort of Army, which they shou'd like *even in Time of Peace*. I say then, that altho the Maxim in general be certainly *true*, yet a *Whig* (without the just Imputation of having deserted his Principles) may be for the *keeping* up such a Standing Army even in Time of Peace, till the Nation have recover'd its *Wits* again, and chuses Representatives who are against

against *Tyranny in any Hands whatsoever*, till the Enemies of our Liberties want the Power of raising *another* Army of *different Sentiments*; for till that time the *Whiggish* Army is the *Guardian of our Liberties*, and secures to us the Power of *disbanding its self*, and prevents the raising of another of a *different Kidney*. As soon as this is done effectually, by my Consent, such thing as a mercenary Soldier shou subsist in *England*. And therefore

The *arming* and *training* of all the *Free holders* of *England*, as it is our undoubted ancient Constitution, and consequently our Right; so it is the Opinion of most *Whigs* that it ought to be put in Practice. This wou'd put us out of all Fear of foreign Invasions, or disappoint any such when attempted: This wou'd soon take away the Necessity of maintaining *Standing* Armies of *Mercenaries* in Time of Peace: This wou'd render us a hundred times more formidable to our Neighbours than we are, and secure effectually our Liberties against any *King* that shou'd have a mind to invade them at home, which perhaps was the Reason some of our late *Kings* were so averse to it: And whereas, as the Case now stands, Ten Thousand disciplin'd Soldiers (once landed) might march without *considerable* Opposition from one End of *England* to the other; were our *Militia* well regu-

regulated, and *Fire-Arms* ſubſtituted in the Place of *Bills*, *Bows*, and *Arrows* (the Weapons in Uſe when our *training Laws* were in their Vigor, and for which our Laws are yet in Force) we need not fear a Hundred Thouſand Enemies, were it poſſible to land ſo many among us. At every Mile's End, at every River and Paſs, the Enemy wou'd meet with freſh Armies, conſiſting of Men as well skill'd in military Diſcipline as themſelves; and more reſolv'd to fight, becauſe they do it for Property: And the farther ſuch an Enemy advanced into the Country, the ſtronger and more reſolved he wou'd find us; as *Hanibal* did the *Romans*, when he encamp'd under the Walls of *Rome*, even after ſuch a Defeat as that at *Canna*. And why? Becauſe they were all *train'd* Soldiers, they were all *Freemen* that fought *pro aris & focis*; and ſcorn'd to truſt the Preſervation of their Lives and Fortunes to *Mercenaries* or *Slaves*, tho never ſo able-body'd: They thought Weapons became not the Hands of ſuch as had nothing to loſe, and upon that Account were unfit Defenders of their Maſters Properties; ſo that they never tried the Experiment but in the *utmoſt Extremity*.

That this is not only practicable but eaſy, the modern Examples of the *Swiſſers* and *Swedes* is an undeniable Indication.

Engliſhmen have as much *Courage*, as great *Strength* of *Body*, and *Capacity* of *Mind*, as any People in the Univerſe: And if our late *Monarchs* had the *enervating* their free Subjects in View, that they might give a Reputation to *Mercenaries*, who depended only on the *Prince* for their Pay (as 'tis plain they had) I know no Reaſon why their Example ſhou'd be followed in the Days of *Liberty*, when there is no ſuch Proſpect. The Preſervation of the *Game* is but a very ſlender Pretence for omitting it. I hope no wiſe Man will put a *Hare* or a *Partridge* in Balance with the *Safety* and *Liberties* of *Engliſhmen*; tho after all, 'tis well known to Sportſmen, that Dogs, Snares, Nets, and ſuch ſilent Methods as are daily put in Practice, deſtroy the Game ten times more than ſhooting with Guns.

If the reſtoring us to our Old Conſtitution in this Inſtance were ever neceſſary, 'tis more eminently ſo at this time, when our next Neighbours of *Scotland* are by Law armed juſt in the manner we deſire to be, and the *Union* between both Kingdoms not perfected. For the *Militia*, upon the Foot it now ſtands, will be of little Uſe to us: 'tis generally compos'd of Servants, and thoſe not always the ſame, conſequently not well train'd; rather ſuch as wink with both Eyes at their own firing a Muſket,

and ſcarce know how to keep it clean, or to charge it aright. It conſiſts of People whoſe Repuration (eſpecially the *Officers*) has been induſtriouſly diminiſh'd, and their Perſons, as well as their Employment, rendred contemptible on purpoſe to enhance the Value of thoſe that ſerve for Pay; inſomuch that few Gentlemen of Quality will now a-days debaſe themſelves ſo much, as to accept of a Company, or a Regiment in the *Militia*. But for all this, I can never be perſuaded that a *Red Coat*, and *Three Pence* a Day, infuſes more Courage into the poor *ſwaggering Idler*, than the having a Wife and Children, and an Eſtate to fight for, with good wholſome Fare in his Kitchen, wou'd into a *Free-born* Subject, provided the *Freeman* were as well armed and trained as the *Mercenary*.

I wou'd not have the *Officers* and *Soldiers* of our moſt Brave and Honeſt *Army* to miſtake me. I am not arguing againſt them; for I am convinced, as long as there is Work to do abroad, 'tis they (and not our home-dwelling *Freeholders*) are moſt proper for it. Our War muſt now be an *Offenſive* War; and what I am pleading for, concerns only the bare *Defenſive* Part. Moſt of our preſent Generals and Officers are fill'd with the true Spirit of Liberty (a moſt rare thing) which demonſtrates

the Felicity of her Majesty's Reign, and her standing upon a true Bottom, beyond any other Instance that can be given; insomuch, that considering how great and happy we have been under the Government of *Queens*, I have sometimes doubted, whether an *Anti-Salick Law* wou'd be to our Disadvantage.

Most of these *Officers* do expect, nay (so true do I take them to be to their Country's Interest) do wish, whenever it shall please God to send us such a Peace as may be relied upon both at home and abroad, to return to the State of *peaceable Citizens* again; but 'tis fit they should do so, with such ample Rewards for their Blood and Labours, as shall entirely satisfy them. And when they, or the Survivors of them, shall return full of Honour and Scars home to their Relations, after the Fatigues of so glorious a Service to their Country are ended; 'tis their Country's Duty to make them easy, without laying a Necessity upon them of striving for the Continuance of an *Army* to avoid *starving*. The *Romans* used to content them by a Distribution of their Enemies Lands; and I think their Example so good in every thing, that we could hardly propose a better. *Oliver Cromwel* did the like in *Ireland*, to which we owe that Kingdom's being

ing a Proteſtant Kingdom at this Day, and its continuing ſubject to the Crown of *England*; but if it be too late to think of this Method now, ſome other muſt be found out by the Wiſdom of *Parliament*, which ſhall fully anſwer the End.

Theſe Officers and Soldiers thus ſettled and reduced to a *Civil State*, wou'd, in a great meaſure, compoſe that invincible *Militia* I am now forecaſting; and by reaſon of their Skill in military Affairs, wou'd deſerve the principal Poſts and Commands in their reſpective Counties: With this advantageous Change of their Condition, that whereas formerly they fought for their Country only as *Soldiers* of *Fortune*, now they ſhou'd defend it as wiſe and valiant *Citizens*, as *Proprietors* of the Eſtates they fight for; and this will gain them the entire Truſt and Confidence of all the good People of *England*, who, whenever they come to know their own Minds, do heartily hate *Slavery*. The Manner and Times of aſſembling, with ſeveral other neceſſary Regulations, are only proper for the *Legiſlative* to fix and determine.

A right *Whig* lays no Streſs upon the *Illegitimacy* of the *pretended Prince* of *Wales*; he goes upon another Principle than they, who carry the *Right of Succeſſion* ſo far, as (upon that Score) to undo all Man-

kind. He thinks no Prince fit to govern, whose Principle it must be to *ruin* the Constitution, as soon as he can acquire unjust Power to do so. He judges it Nonsense for one to be the *Head of a Church*, or *Defender of a Faith*, who thinks himself bound in Duty to overthrow it. He never endeavours to justify his taking the Oaths to this Government, or to quiet his Conscience, by supposing the young *Gentleman* at St. *Germains* unlawfully begotten; since 'tis certain, that according to our Law he cannot be look'd upon as such. He cannot satisfy himself with any of the foolish Distinctions trump'd up of late Years to reconcile base Interest with a Show of Religion; but deals upon the Square, and plainly owns to the World, that he is not influenc'd by any particular Spleen: but that the Exercise of an *Arbitrary*, *Illegal Power* in the Nation, so as to undermine the Constitution, wou'd incapacitate either King *James*, King *William*, or any other, from being his *King*, whenever the *Publick* has a Power to hinder it.

As a necessary Consequence of this Opinion, a *Whig* must be against *punishing the Iniquity of the Fathers upon the Children*, as we do (not only to the *Third* and *Fourth Generation*, but) *for ever*; since our gracious God has declared, that he will no more

more purſue ſuch ſevere Methods in his Juſtice, but that *the Soul that ſinneth it ſhall die.* 'Tis very unreaſonable, that frail Man, who has ſo often need of Mercy, ſhou'd pretend to exerciſe higher Severities upon his *Fellow-Creatures*, than that Fountain of Juſtice on his moſt wicked *revolting Slaves*. To corrupt the Blood of a whole *Family*, and ſend *all* the Offspring a begging after the Father's Head is taken off, ſeems a ſtrange Piece of Severity, fit to be redreſſed in Parliament; eſpecially when we come to conſider, for what Crime this has been commonly done. When Subjects take Arms againſt their *Prince*, if their Attempt ſucceeds, 'tis a *Revolution*; if not, 'tis call'd a *Rebellion*: 'tis ſeldom conſider'd, whether the firſt Motives be juſt or unjuſt. Now is it not enough, in ſuch Caſes, for the prevailing Party to hang or behead the *Offenders*, if they can catch them, without extending the Puniſhment to *innocent Perſons* for *all Generations* to come?

The Senſe of this made the late *Bill of Treaſons* (tho it reach'd not ſo far as many wou'd have had it) a Favourite of the *Old Whigs*; they thought it a very deſirable one whenever it cou'd be compaſs'd, and perhaps if not at that very Juncture, wou'd not have been obtained all: 'twas neceſſary for Two different Sorts of People to

unite in this, in order for a Majority, whoſe Weight ſhou'd be ſufficient to enforce it. And I think ſome *Whigs* were very unjuſtly reproach'd by their *Brethren*, as if by voting for this Bill, they wilfully expoſed the late *King's* Perſon to the wicked Deſigns of his Enemies.

Laſtly, The ſupporting of Parliamentary Credit, promoting of all *publick Buildings* and *High-ways*, the making all *Rivers Navigable* that are capable of it, employing the *Poor*, ſuppreſſing *Idlers*, reſtraining *Monopolies* upon Trade, maintaining the Liberty of the *Preſs*, the juſt *paying* and *encouraging* of all in the publick Service, eſpecially that beſt and uſefulleſt Sort of People the *Seamen*: Theſe (joined to a firm Opinion, that we ought not to hearken to any *Terms of Peace* with the *French King*, till it be quite out of his Power to hurt us, but rather to dye in Defence of our *own* and the *Liberties* of *Europe*) are all of them Articles of my *Whiggiſh Belief*, and I hope none of them are *heterodox*. And if all theſe together amount to a *Commonwealthſman*, I ſhall never be aſham'd of the Name, tho given with a Deſign of fixing a Reproach upon me, and ſuch as think as I do.

Many People complain of the Poverty of the Nation, and the Weight of the Taxes,

Some

Some do this without any ill Deſign, but others hope thereby to become *popular*; and at the ſame time to *enforce a Peace* with *France*, before that Kingdom be reduced to too low a Pitch: fearing, leſt that *King* ſhou'd be *diſabled* to accompliſh their Scheme of bringing in the *Pretender*, and aſſiſting him.

Now altho 'tis acknowledg'd, that the *Taxes* lye very heavy, and *Money* grows ſcarce; yet let the *Importance* of our *War* be conſidered, together with the *Obſtinacy*, *Perfidy*, and *Strength* of our Enemy, can we poſſibly carry on ſuch a *diffuſive* War without *Money* in Proportion? Are the *Queen's* Subjects more burden'd to maintain the publick *Liberty*, than the *French* King's are to confirm their own *Slavery*? Not ſo much by three Parts in four, God be prais'd: Beſides, no true *Engliſhman* will grudge to pay Taxes whilſt he has a Penny in his Purſe, as long as he ſees the publick Money well laid out for the great Ends for which 'tis given. And to the Honour of the Queen and her Miniſters it may be juſtly ſaid, That ſince *England* was a Nation, never was the publick Money more frugally managed, or more fitly apply'd. This is a further Mortification to thoſe *Gentlemen*, who have *Deſigns* in View which they dare not own: For whatever

may

mdy be the *plausible* and *specious* Reasons they give in publick, when they exclaim against the Ministry; the hidden and true one is, that thro the present prudent Administration, their so hopefully laid Project is in Danger of being blown quite up; and they begin to despair that they shall bring in King *James* the Third by the Means of Queen *Anne*, as I verily believe they once had the Vanity to imagine.

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A

Short EXTRACT

OF THE

LIFE

OF

Francis Hotoman,

Taken out of Monſieur *Bayle*'s Hiſt. Dict. and other Authors.

FRANCIS HOTOMAN (one of the moſt learned Lawyers of that Age) was Born at *Paris* the 23d of *Auguſt*, 1524. His Family was an Ancient and Noble one, originally of *Ereſtam*, the Capital of *Sileſia*. *Lambert Hotoman*, his Grandfather, bore Arms in the Service of *Lewis* the 11th of *France*, and married a rich Heireſs at *Paris*, by whom he had 18 Children; the Eldeſt of which (*John Hotoman*) had ſo plentiful an Eſtate, that he laid down the Ranſom-Money for King *Francis* the Firſt, taken at the Battel of *Pavia*: *Summo gallie bono, ſummâ cum ſuâ laude*, ſays *Neveletus*,

Peter Hotoman his 18th Child, and * *Master of the* Waters *and Forests* of *France* (afterwards a Counsellor in the Parliament of *Paris*) was Father to *Francis*, the *Author* of this Book. He sent his Son, at 15 Years of Age, to *Orleans* to study the *Common Law*; which he did with so great Applause, that at Three Years End he merited the Degree of Doctor. His Father designing to surrender to him his Place of Counsellor of *Parliament*, sent for him home: But the young Gentleman was soon tired with the Chicane of the Bar, and plung'd himself deep in the Studies of † *Humanity* and the *Roman* Laws; for which he had a wonderful Inclination. He happen'd to be a frequent Spectator of the Protestants Sufferings, who about that Time, had their Tongues cut out, were otherwise tormented, and burnt for their Religion. This made him curious to dive into those Opinions, which inspired so much Constancy, Resignation and Contempt of Death; which brought him by degrees to a liking of them, so that he turn'd Protestant. And this put him in Disgrace with his Father, who thereupon disinherited him; which forced him at last to quit *France*, and to retire to *Lausanne* in *Switzerland* by *Calvin*'s and *Beza*'s Advice, where his great Merit and Piety promoted him to the Humanity-Professor's Chair, which he accepted of for a Livelihood, having no Subsistance from his Father. There he married a young *French* Lady, who had fled her Country upon the Score of Religion. He afterwards remov'd to *Strasburg*, where he also had a Professor's Chair. The Fame of his great Worth was so blown about, that he was invited by all the great Princes to their several Countries, particularly by

* *Maistre des Eaux & Forrests.*

† *Les belles Lettres.*

the *Landgrave* of *Heſſe*, the *Duke* of *Pruſſia*, and the *King* of *Navarre*; and he actually went to this laſt about the Beginning of the Troubles. Twice he was ſent as Ambaſſador from the Princes of the Blood of *France*, and the Queen-Mother, to demand Aſſiſtance of the Emperor *Ferdinand*. The Speech that he made at the Diet of *Francfort* is ſtill extant. Afterwards he returned to *Straſburg*; but *Jean de Monluc*, the Biſhop of *Valence*, over-perſuaded him to accept of the Profeſſorſhip of Civil Law at *Valence*; of which he acquitted himſelf ſo well, that he very much heighten'd the Reputation of that Univerſity. Here he received two Invitations from *Margaret* Dutcheſs of *Berry*, and Siſter to *Henry* the Second of *France*, and accepted a Profeſſor's Chair at *Bourges*; but continued in it no longer than five Months, by reaſon of the intervening Troubles. Afterwards he returned to it, and was there at the time of the great *Pariſian* Maſſacre, having much-a-do to eſcape with his Life; but having once got out of *France* (with a firm Reſolution never to return thither again) he took Sanctuary in the Houſe of *Calvin* at *Geneva*, and publiſh'd Books againſt the Perſecution, ſo full of Spirit and good Reaſoning, that the Heads of the contrary Party made him great Offers in caſe he wou'd forbear Writing againſt them; but he refuſed them all, and ſaid, The Truth ſhou'd never be betray'd or forſaken by him. *Neveletus* ſays, "That his Reply to thoſe that wou'd have "tempted him, was this: *Nunquam ſibi propug-* "*natam cauſam quæ iniqua eſſet: Nunquam quæ* "*jure & legibus niteretur deſertam præmiorum* "*ſpe vel metu periculi.*— He afterwards went to *Baſil* in *Swiſſerland*, and from thence (being

driven away by the Plague) to *Mountbelliard*, where he buried his Wife. He returned then to *Basil* (after having refused a Professor's Chair at *Leyden*) and there he died of a Dropsy in the 65th Year of his Age, the 12th of *February*, 1590.

He writ a great many learned Books, which were all of them in great Esteem; and among them an excellent Book *de Consolatione*. His *Francogallia* was his own Favourite; tho' blamed by several others, who were of the contrary Opinion. Yet even these who wrote against him do unanimously agree, that he had a World of Learning, and a profound Erudition. He had a thorough Knowledge of the Civil Law, which he managed with all the Eloquence imaginable; and was, without dispute, one of the ablest Civilians that *France* had ever produced: This is *Thuanus* and *Barthius*'s Testimony of him. Mr. *Bayle* indeed passes his Censure of this Work in the Text of his Dictionary, in these Words: "*Sa Francogallia dont il faisoit grand etat* "*est celuy de tous ses ecrits que l'on aprouve le* "*moins*: — and in his Commentary adds, *C'est* "*un Ouvrage recommendable du coste de l'Erudi-* "*tion; mais tres indigne d'un jurisconsulte Fran-* "*cois, si l'on en croit mesme plusieurs Protestants.* I wou'd not do any Injury to so great a Man as Monsieur *Bayle*; but every one that is acquainted with his Character, knows that he is more a Friend to Tyranny and Tyrants, than seems to be consistent with so free a Spirit. He has been extremely ill used, which sowres him to such a degree, that it even perverts his Judgment in some measure; and he seems resolved to be against Monsieur *Jurieu*, and that Party, in every thing, right or wrong. Whoever reads his Works, may trace throughout all Parts of them

them this Diſpoſition of Mind, and ſee what ſticks moſt at his Heart. So that he not only loſes no Occaſion, but often forces one where it ſeems improper and unſeaſonable, to vent his Reſentments upon his Enemies; who ſurely did themſelves a great deal more wrong in making him ſo, than they did him. 'Tis too true, that they did all they cou'd to ſtarve him; and this great Man was forced to write in haſte for Bread; which has been the Cauſe that ſome of his Works are ſhorter than he deſign'd them; and conſequently, that the World is deprived of ſo much Benefit, as otherwiſe it might have reap'd from his prodigious Learning, and Force of Judgment. One may ſee by the firſt Volume of his Dictionary, which goes through but two Letters of the Alphabet, that he forecaſted to make that Work three times as large as it is, cou'd he have waited for the Printer's Money ſo long as was requiſite to the finiſhing it according to his firſt Deſign. Thus much I thought fit to ſay, in order to abate the Edge of what he ſeems to ſpeak hardly of the *Francogallia*; tho' in ſeveral other Places he makes my Author amends: And one may without ſcruple believe him, when he commends a Man, whoſe Opinion he condemns. For this is the Character he gives of this Work: "*C'eſt au* "*fond un bel Ouvrage, bien ecrit, & bien rempli* "*d'erudition. Et d'autant plus incommode au par-* "*tie contraire que l'Auteur ſe contente de citer* "*des faits.*" Can any thing in the World be a greater Commendation of a Work of this Nature, than to ſay it contains only pure Matter of Fact? Now if this be ſo, Monſieur *Bayle* wou'd do well to tell us what he means by thoſe Words, *Tres indigne d'un juriſconſulte Francois.* Whether a *French*

Civilian be debarr'd telling of Truth (when that Truth exposes Tyranny) more than a Civilian of any other Nation? This agrees, in some measure, with Monsieur *Teissier*'s Judgment of the *Francogallia*, and shews, that Monsieur *Bayle*, and Monsieur *Teissier* and *Bongars*, were *Bons Francois* in one and the same Sense. "*Son* "*Livre intitulé, Francogallia, luy attira AVEC* "*RAISON* (and this he puts in great Letters) "*les blame des bons Francois.* For (says he) "therein he endeavours to prove, That *France*, "the most flourishing Kingdom in *Christendom*, "is not successive, like the Estates of particu- "lar Persons; but that anciently the Kings "came to the Crown by the Choice and Suf- "frages of the Nobility and People; insomuch, "that as in former Times the Power and Autho- "rity of *Electing* their Kings belonged to the "*Estates of the Kingdom*, so likewise did the "Right of *Deposing* their *Princes* from their Go- "vernment. And hereupon he quotes the Ex- "amples of *Philip de Valois*, of *King John*, "*Charles the Fifth*, and *Charles the Sixth*, and "*Lewis the Eleventh*: But what he principally "insists on, is to shew, That as from Times "Immemorial, the *French* judg'd Women in- "capable of Governing; so likewise ought they "to be debarr'd from all Administration of the "Publick Affairs.

This is Mr. *Bayle*'s Quotation of *Teissier*, by which it appears how far *Hotoman* ought to be blamed by all *true Frenchmen*, *AVEC RAISON*. But provided that *Hotoman* proves irrefragably all that he says (as not only Monsieur *Bayle* himself, but every body else that writes of him allows) I think it will be a hard matter to persuade a disinterest'd Person, or any other but

a *bon*

a *bon Francois*, (which, in good *English*, is a *Lover of his Chains*) that there is any just Reason shewn why *Hotoman* shou'd be blam'd.

Monsieur *Teissier*, altho' very much prejudiced against him, was (as one may see by the Tenor of the above Oration, and his leaving it thus uncommented on) in his Heart convinc'd of the Truth of it; but no *bon Francois* dares own so much. He was a little too careless when he wrote against *Hotoman*, mistaking one of his Books for another; *viz.* his Commentary *ad titulum institutionum de Actionibus*, for his little Book *de gradibus cognationis*; both extremely esteemed by all learned Men, especially the first: Of which Monsieur *Bayle* gives this Testimony: "*La beauté du Stile, & la connoissance des antiquités Romaines eclatoient dans cet Ouvrage, & le firent fort estimer.*"

Thuanus, that celebrated disinteress'd Historian, gives this Character in general of his Writings. "He composed (says he) several Works "very profitable towards the explaining of the "Civil Law, Antiquity, and all Sorts of fine "Literature, which have been collected and "publish'd by *James Lectius*, a famous Lawyer, "after they had been review'd and corrected by "the Author. *Barthius* says, that he excelled "in the Knowledge of the Civil Law, and of all "genteel Learning *: *Ceux la meſmes qui ont* "*ecrit contre luy* (says *Naveletus*) *tombent* "*d'accord qu'il avoit beaucoup de lecture & une* "*profonde Erudition.*

* *Belles Lettrature*

The Author of the *Monitoriale adversus Italogalliam*, which some take to be *Hotoman* himself, has this Passage relating to the *Francogallia*: "Quomodo potest aliquis ei succensere qui est "tantum relator & narrator facti? *Francogal-*

" *ista* enim tantum narrationi & relationi simplici vacat, quod si aliena dicta delerentur, " charta remaneret alba.

It was objected to him, that he unawares furnish'd the Duke of *Guise* and the *League* at *Paris* with Arguments to make good their Attempts against their Kings. This cannot be deny'd; but at the same time it cannot be imputed to *Hotoman* as any Crime: Texts of Scripture themselves have been made use of for different Purposes, according to the Passion or the Interests of Parties. Arguments do not lose their native Force for being wrong apply'd: If the Three *Estates of France* had such a fundamental Power lodg'd in them; who can help it, if the Writers for the *League* made use of *Hotoman*'s Arguments to support a wrong Cause? And this may suffice to remove this Imputation from his Memory.

He was a Man of a very handsome Person and Shape, tall and comely; his Eyes were blewish, his Nose long, and his Countenance venerable: He joined a most exemplary Piety and Probity to an eminent Degree of Knowledge and Learning. No Day pass'd over his Head, wherein he employ'd not several Hours in the Exercise of Prayer, and reading of the Scriptures. He wou'd never permit his Picture to be drawn, tho' much intreated by his Friends; however (when he was at his last Gasp, and cou'd not hinder it) they got a Painter to his Bed's-side, who took his Likeness as well as 'twas possible at such a time. *Basilius Amerbachius* assisted him during his last Sickness, and *James Grineus* made his Funeral-Sermon. He left two Sons behind him, *John* and *Daniel*; besides a great Reputation, and Desire of him;

not

not only among his Friends and Acquaintance, but all the Men of Learning and Probity all over *Europe*.

Explication of the *Roman* Names mention'd by *Hotoman*.

Æ Dui, People of *Chalons* and *Nevers*, of *Autun* and *Maſcon*.

Agrippina Colonia, *Cologn*.

Arverni, P. of *Auvergne* and *Bourbonnois*.

Armorica, *Bretagne* and *Normandy*.

Aquitani, P. of *Guienne* and *Gaſcogn*.

Atrebates, P. of *Artois*.

Attuarii, P. of *Aire* in *Gaſcogn*.

Auguſtodunum, *Autun*.

Aureliani, P. of *Orleans*.

Aquiſgranum, *Aix la Chapelle*.

Ambiani, P. of *Amiens*.

Alſaciones, P. of *Alſace*.

Bigargium, *Bigorre forté*.

Bibracte, *Bavray*, in the Dioceſe of *Rheims*.

Bituriges, P. of *Bourges*.

Cariſiacum, *Crecy*.

Caninefates, P. on the Sea-Coaſt, between the *Elb* and the *Rhine*.

Carnutes, P. of *Chartres* and *Orleans*.

Ceutrones, P. of *Liege*.

Ceutones, P. of *Tarentaiſe* in *Savoy*.

Condruſii, P. of the *Condros* in *Flanders*.

Duſiacum, *non liquet*.

Eburones, P. of the Dioceſe of *Liege*, and of *Namur*.

Gorduni,

Gerdeni,	P. about *Ghent* and *Courtray.*
Grudii,	P. of *Levain.*
Hetruſci,	P. of *Tuſcany.*
Laudunum,	*Laon.*
Lexovium,	*Liſieux.*
Lemiates,	People about *Lem.*
Levaci,	P. of *Hainault.*
Leuci,	P. of *Metz, Toul* and *Verdun.*
Lingones,	P. of *Langres.*
Lugdunum,	*Lyons.*
Lutetia,	*Paris.*
Maſſilia,	*Marſeilles.*
Marſua,	*non liquet.*
Nervii,	P. of *Hainault* and *Cambray.*
Nitiobriges,	P. of *Agenois.*
Novem-opulonia,	*Gaſcony.*
Noviomagum,	*Nimeguen.*
Pannonia,	*Hungary.*
Pleumoſii,	P. of *Tournay* and *Liſle.*
Rhætia,	*Swiſſerland.*
Rhemi,	P. of *Rheims.*
Senones,	P. of *Sens* and *Auxerre.*
Sequani,	P. of *Franche Comté.*
Sequana,	the River *Seine.*
Sueſſiones,	P. of *Soiſſons.*
Trecaſſini,	P. of *Tricaſſes* in *Champagne.*
Treviri,	P. of *Triers,* and Part of *Luxemburg.*
Toxandri,	P. of *Zealand.*
Tolbiacum,	*non liquet.*
Veneti,	P. of *Vannes.*
Veſontini,	P. of *Beſançon.*
Ulbaneſſes,	*non liquet.*
Witmarium,	*non liquet.*

THE

The Author's Preface.

To the most Illustrious and Potent Prince *FREDERICK*, Count Palatine of the *Rhine*, Duke of *Bavaria*, &c. First Elector of the *Roman* Empire, His most Gracious Lord, *Francis Hotoman*, wishes all Health and Prosperity.

THIS is an old Saying, of which Teucer the Son of Telamon is the supposed Author, and which has been approved of these many Ages, A Man's Country is, where-ever he lives at Ease. *For to bear even Banishment it self with an unconcern'd Temper of Mind like other Misfortunes and Inconveniences, and to despise the Injuries of an ungrateful Country, which uses one more like a Stepmother than a true Mother, seems to be the Indication of a great Soul. But I am of a quite different Opinion: For if it be a great Crime, and almost an Impiety not to live under and suffer patiently the Humours and harsh Usage of our Natural Parents; 'tis sure a much greater, not to endure those of our Country, which wise Men have unanimously preferr'd to their Parents. 'Tis indeed the Property of a weary self-interested Man, to measure his Kindness for his Country by his own particular Advantages: But such a sort of Carelessness and*

Patria est ubicunq; est bene.

In-

Indifferency seems a Part of that Barbarity which was attributed to the Cynicks *and* Epicureans; *whence that detestable Saying proceeded,* When I am dead, let the whole World be a Fire. *Which is not unlike the Old Tyrannick Axiom;* Let my Friends perish, so my Enemies fall along with them. *But in gentle Dispositions, there is a certain inbred Love of their Country, which they can no more divest themselves of, than of Humanity it self. Such a Love as* Homer *describes in* Ulysses, *who preferred* Ithaca, *tho' no better than a Bird's Nest set to a craggy Rock in the Sea, to all the Delights of the Kingdom which* Calypso *offer'd him.*

Me mortuo terra misceatur incendio. Pereant amici dum una inimici intercidant.

Nescio quâ natale Solum dulcedine cunctos
Ducit, & immemores non sinit esse sui:

Was very truly said by the Ancient Poet: When we think of that Air we first suck'd in, that Earth we first trod on, those Relations, Neighbours and Acquaintance to whose Conversation we have been accustomed.

But a Man may sometimes say, My Country *is grown mad or foolish, (as* Plato *said of his) sometimes that it rages and cruelly tears out its own Bowels.—We are to take care in the first Place, that we do not ascribe* other Folks *Faults to our innocent* Country. *There have been many cruel* Tyrants *in* Rome *and in other Places; these not only tormented innocent good Men, but even the best deserving Citizens, with all manner of Severities: Does it therefore follow, that the Madness of these Tyrants must be imputed to their Country? The*

Cruelty

Cruelty of the Emperor Macrinus is particularly memorable; who as Julius Capitolinus writes, was nicknamed Macellinus, because his House was stained with the Blood of Men, as a Shambles is with that of Beasts. Many such Tyrants are mention'd by Historians, who for the like Cruelty (as the same Capitolinus tells us) were stil'd, one Cyclops, another Busiris, a 3d Sciron, a 4th Tryphon, a 5th Gyges. These were firmly perswaded, that Kingdoms and Empires cou'd not be secur'd without Cruelty: Wou'd it be therefore reasonable, that good Patriots shou'd lay aside all Care and Solicitude for their Country? Certainly they ought rather to succour her, when like a miserable oppressed Mother, she implores her Childrens Help, and to seek all proper Remedies for the Mischiefs that afflict her.

But how fortunate are those Countries that have good and mild Princes! how happy are those Subjects, who, thro' the Benignity of their Rulers may quietly grow old on their Paternal Seats, in the sweet Society of their Wives and Children! For very often it happens, that the Remedies which are made use of prove worse than the Evils themselves. 'Tis now, most Illustrious Prince, about Sixteen Years since God Almighty has committed to your Rule and Government a considerable Part of Germany situate on the Rhine. During which time, 'tis scarce conceivable what a general Tranquility, what a Calm (as in a smooth Sea) has reigned in the whole Palatinate; how peaceable and quiet all things have continued:

How

How piously and religiously they have been go-
verned: Go on most Gracious Prince in the
same Meekness of Spirit, which I to the u-
most of my Power must always extol. Pro-
ceed in the same Course of gentle and peace-
able Virtue; Macte Virtute; not in the Sense
which Seneca tells us the Romans used this
Exclamation in, to salute their Generals when
they return'd all stain'd with Gore Blood from
the Field of Battel, who were rather true
Macellinus's: *But do you proceed in that Mo-*
deration of Mind, Clemency, Piety, Justice,
Affability, which have occasion'd the Tranquil-
lity of your Territories. And because the
present Condition of your Germany *is such as*
we see it, Men now-a-days run away from Coun-
tries infested with Plunderers and Oppressors,
to take Sanctuary in those that are quiet and
peaceable; as Mariners, who undertake a Voyage,
forecast to avoid Streights, &c. and Rocky
Seas, and chuse to sail a calm and open Course.

There was indeed a Time, when young
Gentlemen, desirous of Improvement, flock'd
from all Parts to the Schools and Academies
of our Francogallia, *as to the publick Marts*
of good Literature. Now they dread them as
Men do Seas infested with Pyrates, and de-
test their Tyrannous Barbarity. The Remem-
brance of this wounds me to the very Soul,
when I consider my unfortunate miserable Coun-
try has been for almost twelve Years, burning
in the Flames of Civil War. But much more
am I griev'd, when I reflect that so many have

not

not only been idle Spectators of these dreadful Fires (as Nero was of flaming Rome) but have endeavour'd by their wicked Speeches and Libels to blow the Bellows, whilst few or none have contributed their Assistance towards the extinguishing them.

I am not ignorant how mean and inconsiderable a Man I am; nevertheless as in a general Conflagration every Man's Help is acceptable, who is able to fling on but a Bucket of Water, so I hope the Endeavours of any Person that offers at a Remedy will be well taken by every Lover of his Country. Being very intent for several Months past on the Thoughts of these great Calamities, I have perused all the old French and German Historians that treat of our Francogallia, and collected out of their Works a true State of our Commonwealth; in the Condition (wherein they agree) it flourished for above a Thousand Years. And indeed the great Wisdom of our Ancestors in the first framing of our Constitution, is almost incredible; so that I no longer doubted, that the most certain Remedy for so great Evils must be deduced from their Maxims.

For as I more attentively enquired into the Source of these Calamities, it seemed to me, that even as human Bodies decay and perish, either by some outward Violence, or some inward Corruption of Humours, or lastly, thro' Old Age: So Commonwealths are brought to their Period, sometimes by Foreign Force, sometimes by Civil Dissentions, at other Times by being worn

out and neglected. Now tho' the Misfortunes that have befallen our Commonwealth are commonly attributed to our Civil Dissensions, I found, upon Enquiry, these are not so properly to be called the Cause as the Beginning of our Mischiefs. And Polybius, that grave judicious Historian, teaches us, in the first place, to distinguish the Beginning from the Cause of any Accident. Now I affirm the Cause to have been that great Blow which our Constitution received about 100 Years ago from that * Prince, who ('tis manifest) first of all broke in upon the noble and solid Institutions of our Ancestors. And as our natural Bodies when put out of joint by Violence, can never be recover'd but by replacing and restoring every Member to its true Position; so neither can we reasonably hope our Commonwealth shou'd be reston'd to Health, till through Divine Assistance it shall be put into its true and natural State again.

* Lewis the XI.

And because your Highness has always approv'd your self a true Friend to our Country; I thought it my Duty to inscribe, or, as it were, to consecrate this Abstract of our History to your Patronage. That being guarded by so powerful a Protection, it might with greater Authority and Safety come abroad in the World. Farewel, most Illustrious Prince; May the great God Almighty for ever bless and prosper your most noble Family.

Your Highness's most Obedient,

12 Kal. Sep. 1574.

Francis Hotoman.

Francogallia.

CHAP. I.

The State of Gaul, *before it was reduced into a* Province *by the* Romans.

MY Design being to give an Account of the Laws and Ordinances of our *Francogallia*, as far as it may tend to the Service of our *Commonwealth*, in its present Circumstances, I think it proper, in the first place, to set forth the State of *Gaul*, before it was reduced into the Form of a *Province* by the *Romans*: For what *Cæsar*, *Polybius*, *Strabo*, *Ammianus*, and other Writers have told us concerning the *Origin*, *Antiquity* and *Valour* of that People, the Nature and Situation of their Country, and their private Customs, is sufficiently known to all Men, tho' but indifferently learned.

We are therefore to understand, that the State of *Gaul* was such at that time, that neither was the *whole* under the Government of a

*Civitas, a Commonwealth.

single Person: Nor were the particular **Commonwealths* under the Dominion of the *Populace*, or the *Nobles* only; but all *Gaul* was so divided into *Commonwealths*, that the most Part were govern'd by the *Advice* of the *Nobles*; and these were called *Free*; the rest had *Kings*: But every one of them agreed in this *Institute*, that at a certain Time of the Year a *publick Council* of the whole Nation should be held; in which *Council*, whatever seem'd to relate to the whole *Body* of the *Commonwealth*, was appointed and establish'd. *Cornelius Tacitus*, in his 3d Book, reckons Sixty-four *Civitates*; by which is meant (as *Cæsar* explains it) so many Regions or Districts; in each of which, not only the same *Language*, *Manners* and *Laws*, but also the same *Magistrates* were made use of. Such, in many Places of his History, he principally mentions the Cities of the *Ædui*, the *Rhemi* and *Arverni* to have been. And therefore *Dumnorix* the *Æduan*, when *Cæsar* sent to have him slain, began to resist, and to defend himself, and to implore the Assistance of his *Fellow-Citizens*; often crying out, That he was a *Freeman*, and Member of a *Free Commonwealth*, lib. 5. cap. 3.

†Ἀειστρεφεῖς δ' ἦσαν αἱ πλείους τῶν πολιτειῶν. ἵνα δ' ἡγεμόνα ἡροῦντο κατ' ἐνιαυτὸν τὸ παλαιὸν, καὶ δ' αὖτοὺς εἰς πόλεμον εἶς ἰὼν τῇ πλήθυϊ ἀπεδείκνυτο στρατηγός.

To the like purpose *Strabo* writes in his Fourth Book †: "*Most* of their *Commonwealths* "(says he) were govern'd by "the *Advice* of the *Nobles*; "but every *Year* they anciently chose a *Magistrate*; as also "the People chose a *General* to manage their "Wars. The like *Cæsar*, lib. 6. cap. 4. writes in these Words: "Those *Commonwealths* which "are esteem'd to be under the best Administration, have made a Law, that if any "Man

" Man chance to hear a Rumour or Report a-
" broad among the Bordering People, which
" concerned the *Commonwealth*, he ought to in-
" form the *Magiſtrates* of it, and communicate
" it to no body elſe. The *Magiſtrates* conceal
" what they think proper, and acquaint the Mul-
" titude with the reſt: For of Matters relating
" to the *Community*, it was not permitted to any
" Perſon to talk or diſcourſe, but in *Council*.—
Now concerning this *Common-Council* of the whole Nation, we ſhall quote theſe few Paſſages out of *Cæſar*. " They demanded (ſays he)
" *lib.* 1. *cap.* 12. a *General Council* of *all Gallia*
" to be ſummon'd; and that this might be done
" by *Cæſar*'s Conſent. Alſo, *lib.* 7. *cap.* 12.—
" a *Council* of all *Gallia* was ſummon'd to meet
" at *Bibracte*; and there was a vaſt Concourſe
" from all Parts to that Town.——And *lib.* 6.
" *cap.* 1.—*Cæſar* having ſummon'd the *Council*
" of *Gaul* to meet early in the Spring, as he
" had before determin'd: Finding that the
" *Senones*, *Carnutes* and *Treviri* came not when
" all the reſt came, he adjourned the *Council* to
" *Paris*.———And, *lib.* 7. *cap.* 6. ſpeaking of *Vercingetorix*,——" He promis'd himſelf, that
" he ſhou'd be able by his Diligence to unite
" ſuch *Commonwealths* to him as diſſented from
" the reſt of the Cities of *Gaul*, and to form a
" *General Council* of all *Gallia*; the Power of
" which, the whole World ſhould not be able to
" withſtand.

Now concerning the *Kings* which ruled over certain Cities in *Gallia*, the ſame Author makes mention of them in very many Places: Out of which this is particularly worthy our Obſervation: That it was the *Romans* Cuſtom

to careſs all thoſe *Reguli* whom they found proper for their turns: That is, ſuch as were buſy Men, apt to embroil Affairs, and to ſow Diſſentions or Animoſities between the ſeveral *Commonwealths*. Theſe they joined with in Friendſhip and Society, and by moſt honourable publick Decrees called them their *Friends* and *Confederates*: And many of theſe *Kings* purchaſed, at a great Expence, this Verbal Honour from the *Chief Men* of *Rome*. Now the *Gauls* called ſuch, *Reges*, or rather *Reguli*, which were choſen, not for a certain Term, (as the Magiſtrates of the Free Cities were) but for their Lives; tho' their Territories were never ſo ſmall and inconſiderable: And theſe, when Cuſtoms came to be changed by Time, were afterwards called by the Names of *Dukes*, *Earls*, and *Marquiſſes*.

Of the *Commonwealths* or *Cities*, ſome were much more potent than others; and upon theſe the leſſer *Commonwealths* depended; theſe they put themſelves under for Protection: Such weak Cities *Cæſar* ſometimes calls the *Tributaries* and *Subjects* of the former; but, for the moſt part he ſays, they were in *Confederacy* with them. *Livius* writes, *lib.* 5. that when *Tarquinius Priſcus* reigned in *Rome*, the *Bituriges* had the principal Authority among the *Celtæ*, and gave a *King* to them. When *Cæſar* firſt enter'd *Gaul*, A. U. C. 695. he found it divided into Two Factions; the *Ædui* were at the Head of the one, the *Arverni* of the other, who many Years contended for the Superiority: But that which greatly increas'd this Contention, was, Becauſe the *Bituriges*, who were next Neighbours to the *Arverni*, were yet *in fide & imperio*; that is, Subjects and Allies to the *Ædui*. On the

the other hand, the *Sequani* (tho' Bordering on the *Ædui*) were under the Protection of the *Arverni*, lib. 1. cap. 12. lib. 6. cap. 4. The *Romans* finding ſuch like Diſſentions to be for their Intereſt; that is, proper Opportunities to enlarge their own Power, did all they cou'd to foment them: And therefore made a League with the *Ædui*, whom (with a great many Compliments) they ſtiled *Brothers and Friends of the People of Rome.* Under the Protection and League of the *Ædui*, I find to have been firſt the *Senones*, with whom ſome time before the *Pariſians* had join'd their *Commonwealth* in League and Amity. Next, the *Bellouaci*, who had nevertheleſs a great City of their own, abounding in Numbers of People, and were of principal Authority and Repute among the *Belgæ*, lib. 2. cap. 4. and lib. 7. cap. 7. *Cæſar* reckons the *Centrones*, *Grudii*, *Lævaci*, *Pleumoſii*, *Gordunni*, under the Dominion of the *Nervii*, lib. 5. cap. 11. He names the *Eburones* and *Condruſii* as Clients of the *Treviri*, lib. 4. cap. 2. And of the *Commonwealth* of the *Veneti* (theſe are in *Armorica* or *Britanny*) he writes, that their Domination extended over all thoſe Maritime Regions; and that almoſt all that frequented thoſe Seas were their Tributaries, *lib. 3. cap. 2.* But the Power of the *Arverni* was ſo great, that it not only equall'd that of the *Ædui*, but a little before *Cæſar*'s Arrival, had got moſt of their Clients and Dependents from them, *lib. 6. cap. 4. lib. 7. cap. 10.* Whereupon, as *Strabo* writes in his 4th Book, they made War againſt *Cæſar* with Four hundred thouſand Men under the Conduct of their General *Vercingetorix.* Theſe were very averſe to Kingly Government: So that *Celtillus*, Father to *Vercingetorix*,

a Man of great Power and Reputation (reckon'd the first Man in all *Gaul*,) was put to Death, by *Order* of his *Commonwealth*, for aspiring to the *Kingdom*. The *Sequani*, on the other hand, had a King, one *Catamantales*, to whom the *Romans* gave the Title of their *Friend* and *Ally*, lib. 1. cap. 2. Also the *Suessiones*, who were Masters of most large and fertile Territories, with 12 great Cities, and cou'd muster Fifty thousand fighting Men, had a little before that time *Divitiacus*, the most potent Prince of all *Gallia* for their King; he had not only the Command of the greatest Part of *Belgæ*, but even of *Britanny*. At *Cæsar*'s Arrival they had one *Galba* for their King, *lib.* 2. *cap.* 1. In *Aquitania*, the *Grandfather* of one *Piso* an *Aquitanian* reigned, and was called *Friend* by the People of *Rome*, lib. 4. cap. 3. The *Senones*, a People of great Strength and Authority among the *Gauls*, had for some time *Moritasgus* their King; whose Ancestors had also been Kings in the same Place, *lib.* 5. *cap.* 13. The *Nitiobriges*, or *Agenois*, had *Olovico* for their King; and he also had the Appellation given him of *Friend* by the *Senate* of *Rome*, lib. 7. cap. 6.

But concerning all these Kingdoms, one thing is remarkable and must not lightly be past by; which is, That *they were not hereditary*, but *conferr'd* by the *People* upon such as had the Reputation of being just Men. Secondly, That they had no *arbitrary* or *unlimited Authority*, but were bound and *circumscribed* by *Laws*; so that they were no less accountable to, and subject to the Power of the People, than the People was to theirs; insomuch that those *Kingdoms* seem'd nothing else but *Magistracies for Life*.

For

For *Cæsar* makes mention of several *private Men*, whose *Ancestors* had formerly been *such Kings*; among these he reckons *Casticus*, the Son of *Catamantales*, whose Father had been King of the *Sequani* many Years, *lib.* 1. *cap.* 2. and *Pisb* the *Aquitanian*, lib. 4. cap. 3. also *Tasgetius*, whose Ancestors had been Kings among the *Carnutes*, lib. 5. cap. 8.

Now concerning the Extent of their *Power* and *Jurisdiction*, he brings in *Ambiorix*, King of the *Eburones*, giving an account of it, *lib.* 5. *cap.* 8. "The Constitution of our Government "is such (says he) that the People have no less "Power and Authority over me than I have "over the People. *Non minus habet in me juris "multitudo, quam ipse in multitudinem.* Which Form of Government, *Plato*, *Aristotle*, *Polybius* and *Cicero* have for this Reason determined to be the *best* and *most Excellent*; "Because (says "*Plato*) should Kingly Government be left "without a Bridle, when it has attained to su-"preme Power, as if it stood upon a slippery "Place, it easily falls into Tyranny: And there-"fore it ought to be restrained as with a Curb, "by the Authority of the Nobles; and such "chosen Men as the People have empower'd "to that End and Purpose.

CHAP. II.

Probable Conjectures concerning the ancient Language *of the* Gauls.

IN this Place it ſeems proper to handle a Queſtion much diſputed and canvaſs'd by Learned Men; *viz.* What was the Language of the *Gauls* in thoſe old Times? For as to what belongs to their Religion, Laws, and the Cuſtoms of the People, *Cæſar*, as I ſaid before, has at large given us an account. In the firſt place we ought to take notice, that *Cæſar*, in the Beginning of his Commentaries, where he divides the *Gauls* into Three Nations, the *Belgæ*, the *Aquitanæ*, and the *Celtæ*, tells us they all differ'd, not only in their *Cuſtoms*, but in their *Language*: Which alſo *Strabo* confirms, *lib.* 4. where he ſays they were not ὁμογλώττους, of one Language, but a little differing in their Languages. And the ſame thing *Ammianus Marcellinus* teſtifies in his 15th Book. But what many Learned Men (eſpecially of our own Country) have maintain'd, *viz.* That the *Gauls* commonly uſed the *Greek Tongue*, may be refuted by this ſingle Inſtance which *Cæſar* takes notice of, *lib.* 5. *cap.* 12. That when Q. *Cicero* was beſieged in his Camp, he diſpatched Letters written in the *Greek* Language, "*Leſt (if* "*they were intercepted) his Deſigns ſhou'd be* "*diſcover'd by the* Gauls. But to this ſome object, what *Strabo* writes, *lib.* 4. *viz.* "That all "Sorts of good Literature (and eſpecially that of "the *Greek Language*) flouriſh'd at *Marſeilles* to "ſuch

Ἀλλ' ἐνίοις μικτὴν παρηλλαγμένην τινὰ ἔχουσι τὴν γλῶτταν.

" ſuch a degree, that the *Gauls*, by the Exam-
" ple of the *Maſſilians*, were mightily delighted
" with the *Greek* Tongue, inſomuch that they
" began to write their very Bargains and Con-
" tracts in it. Now to this there is a ſhort and ready Reply: For, in the firſt place, if the *Gauls* learnt *Greek* by the Example of the *Maſſilians*, 'tis plain, 'twas none of their Mother-tongue. Secondly, *Strabo* in the ſame place clearly ſhows us, that the Faſhion of writing their Contracts in *Greek* began but in his Time, when all *Gallia* was in Subjection to the *Romans*. Beſides, he ſpeaks preciſely only of thoſe *Gauls* who were Borderers and next Neighbours to the *Maſſilians*; of whom he ſays, that not only many of their private Men, but even their Cities (by publick Decrees, and propoſing great Rewards) invited ſeveral Learned Men of *Maſſilia* to inſtruct their Youth.

It remains that we ſhou'd clear that place in *Cæſar*, where he tells us the *Gauls*, in their publick and private Reckonings, *Græcis literis uſos fuiſſe*. But let us ſee whether the word *Græcis* in that place ought not to be left out, not only as *unneceſſary* but *ſurreptitious*. Since it was ſufficient to expreſs *Cæſar*'s Meaning to have ſaid, that the *Gauls* made no uſe of *Letters* or *Writing* in the Learning of the *Druids*, but in all other Matters, and in publick and private Accounts, they did make uſe of *Writing*: For *uti litteris*, *to uſe Letters*, is a frequent Expreſſion for *Writing* among *Latin* Authors. Beſides, it had been a Contradiction to ſay the *Gauls* were unskill'd in the *Greek* Tongue, as *Cæſar* had averr'd a little before; and afterwards to ſay, that they wrote all their publick and private Accounts in *Greek*. As to what many ſuppoſe, that the words

words *literis Græcis* in that place, are not to be taken for *Writing Greek*, but only for the *Characters* of the *Letters*; I can less approve of this Explanation than the former, becauſe though many ancient Writers (as we juſt now ſaid) frequently uſed the Expreſſion, *Uti litteris* for *Scribere*; yet I never obſerv'd, that any of them ever uſed it to ſignify the *Forms* and *Faſhions* of the *Characters*. Neither does it make at all for their Opinion, what *Cæſar* ſays in the Firſt Book of his Commentaries, *viz.* That there were found in the *Helvetian* Camp, Tablets, *literis Græcis conſcriptas*, as if the ſame Perſon, who had learnt to make uſe of the *Greek Forms* of *Characters*, might not as eaſily have learnt the *Greek Language*; or as if there might not be among the *Helvetii*, *Prieſts* or *Gentlemens Sons*, who might then have learnt *Greek*, as our's now learn *Latin*; *Greek* being at that Time a Language in Vogue and Eſteem. The very Neighbourhood of the School of *Maſſilia* is ſufficient to confute that Opinion: And therefore *Cæſar*, when he ſpeaks of his own Letter to *Cicero*, tells us, he ſent that Letter written in *Greek Characters*, leſt (in caſe it were intercepted) his Deſigns ſhou'd be diſcover'd by the Enemy. *Juſtinus*, lib. 20. ſays, there was a Decree of the Senate made, that no *Carthaginian*, after that Time, ſhou'd ſtudy the * *Greek Language* or *Writing*, leſt he ſhou'd be able to ſpeak or write to the Enemy without an Interpreter. *Tacitus*, in his Book *de moribus Germanorum*, tells us, that ſeveral Tombs and Monuments were yet to be ſeen in the Confines of *Germany* and *Switzerland* with *Greek* Inſcriptions on them. *Livius*, lib. 9. ſays, The *Roman* Boys formerly ſtudied the *Tuſcan* Language, as now they do the *Greek*. And in his

* *Græcas literas.*

28th

28th Book, —— "*Hanibal* erected an Altar, "and dedicated it with a large Inſcription of "all his Atchievements, in the *Greek* and *Punick* "Tongues. *Item Lib.* 40. Both Altars and "Inſcriptions on them in the *Greek* and *Latin* "Tongues. Laſtly, I cannot imagine, that *Cæſar* wou'd have expreſſed himſelf, (if he had meant, as theſe wou'd have him) *Græcis literis ſcribere*; but rather, *Græcarum literarum formâ*, as we ſee in *Tacitus*, Lib. 11. "*Novas literarum* "*formas addidit*. He added new Characters of Letters: Having found, that the *Greek* Lite-"rature was not begun and perfected at once. And again, — "*Et forma literis latinis quæ veter-*"*rimis Græcorum*, &c.

Now leſt any body ſhou'd wonder, how the Word *Græcis* crept into *Cæſar*'s Text, I will inſtance you the like Miſchance in *Pliny*, *lib.* 7. *cap.* 57. where 'tis thus written, —— "*Gentium* "*conſenſus tacitus primum omnium conſpiravit ut* "IONUM *literis uterentur*. And afterwards, — "*Sequens gentium conſenſus in conſonibus fuit.* And again, — "*Tertius conſenſus eſt in Horarum* "*obſervatione*. Now who is there that ſees not plainly the Word IONUM ought to be left out, as well becauſe 'tis apparently unneceſſary, (for *Pliny* had no farther Deſign than to let us know, that Men firſt of all conſented in the Writing and Form of their Letters) as becauſe 'tis falſe, that the *Ionian* Letters were the firſt invented; as *Pliny* himſelf in his foregoing Chapter, and *Tacitus*, *lib.* 11. have told us? I have obſerved however two Places, (*Gregorius Turonenſis*, lib. 5. and *Aimoinus*, lib. 3. cap. 41.) wherein 'tis intimated, that the *Gauls* uſed the *Forms* of the *Greek* Letters: For where they ſpeak of King *Chilperick*, —— "*He added* (ſay they)

they) "*some Letters to our Letters*; and those "were, ω, ϟ, ζ, φ; and sent Epistles to the se- "veral Schools in his Kingdom, that the Boys "should be so taught. *Aimoinus* mentions only three Letters, χ, θ, φ. But we must understand, that these were *Franks*, not *Gauls*; or rather *Franco-gauls*, who made use of their own native Language, the *German* Tongue; not that ancient Language of the *Gauls*, which had grown out of use under the *Roman* Government: Besides, if the *Francogalli* had made use of the *Greek* Letters, how came they at first to except these, when they made use of all the rest? But we have said enough, and too much of this Matter. As for their Opinion who believe that the *Gauls* spoke the *German* Language, *Cæsar* confutes it in that single place, wherein he tells us, that *Arioviſtus*, by Reason of his long Conversation in *Gallia*, spoke the *Gallick* Tongue.

Now for two Reasons their Opinion seems to me to be most probable, who write, that the *Ancient Gauls* had a peculiar Language of their own, not much differing from the *British*: First, because *Cæsar* tells us it was the Custom for those *Gauls* who had a mind to be thoroughly instructed in the Learning of the *Druyds*, to pass over into *Britain*; and since the *Druyds* made no use of Books, 'tis agreeable to Reason, that they taught in the same Language which was used in *Gallia*. Secondly, because *Tacitus* in his Life of *Agricola*, writes, that the Language of the *Gauls* and *Britains* differ'd but very little: neither does that Conjecture of *Beatus Rhenanus* seem unlikely to me, who believes the Language which is now made use of in *Basse Bretayne* [*Britones Britonantes*] to be

the

the Remains of our ancient Tongue. His Reaſons for this Opinion may be better learn'd from his own Commentaries, than told in this Place. The Language which we at preſent make uſe of, may eaſily be known to be a Compound of the ſeveral Tongues of divers Nations. And (to ſpeak plainly and briefly) may be divided into four Parts. One half of it we have from the *Romans*, as every one that underſtands *Latin* ever ſo little, may obſerve: For beſides, that the *Gauls* being ſubject to the *Romans*, wou'd naturally fall into their Cuſtoms and Language, 'tis manifeſt that the *Romans* were very induſtrious to propagate their Tongue, and to make it univerſal, and (as it were) venerable among all Nations. And to that End ſettled Publick Schools up and down, at *Autun*, *Beſancon*, *Lyons*, &c. as *Valerius Maximus*, *Tacitus*, and *Auſonius* tell us. The other half of it may be ſubdivided thus. One third of it we hold from the *Ancient Gauls*, another from the *Franks*, and the laſt from the *Greek* Language: For it has been demonſtrated long ſince by many Authors, that we find innumerable *Frank* (that is, *German*) Words (as we ſhall hereafter prove) in our daily Speech. And ſeveral learned Men have ſhewn us, that many *Greek* Words are adapted to our common Uſe, which we do not owe to the Learning and Schools of the *Druyds*, (who I believe ſpoke no *Greek*); but to the Schools and Converſation of the *Maſſilians*, whom we formerly mentioned.

CHAP.

CHAP. III.

The State of Gaul, *after it was reduced into the Form of a* Province *by the* Romans.

'TIS very well known to all learned Men, that *Gaul*, after having been often attempted with various Succeſs, during a ten Years War, and many Battels, was at laſt totally ſubdued by *Caſar*, and reduced into the Form of a Province. It was the Misfortune of this moſt valiant and warlike People, to ſubmit at length to the *Great Beaſt*, as it is called in Scripture, with which however they ſo ſtrove for Empire for eight hundred Years, (as *Joſephus* informs us) that no Wars with any other Nation, ſo much terrified *Rome*. And *Plutarch* in his Lives of *Marcellus* and *Camillus*; *Appian* in his 2d Book of the Civil Wars; *Livius*, *lib.* 8. & 10. have recorded, that the *Romans* were ſo afraid of the *Gauls*, that they made a Law, whereby all the Diſpenſations (formerly granted to Prieſts and old Men, from ſerving in their Armies) were made void, in Caſe of any Tumult or Danger ariſing from the *Gauls*; which *Cicero* takes notice of in his 2d *Philippick*. *Ceſar* himſelf in his 6th Book, and after him *Tacitus*, lib. *de moribus Germanorum*, do teſtify, That there was a time wherein the *Gauls* excell'd the *Germans* in Valour, and carried the War into their Territories, ſettling Colonies (by reaſon of their *great* Multitudes of People) beyond the *Rhine*.

Now *Tacitus* in his Life of *Agricola*, attributes the *Loſs* of this their ſo remarkable *Valour*, to the *Loſs* of their *Liberty*. " *Gallos in bellis floruiſſe accepimus, mox ſegnities cum otio intravit, amiſſa* Virtute *pariter ac* Libertate —. And I hope the Reader will excuſe me, if the Love of my Country makes me add that remarkable Teſtimony of the Valour of the *Gauls*, mentioned by *Juſtin*, *lib.* 24. —— " The *Gauls* " (ſays he) finding their Multitudes to increaſe " ſo faſt, that their Lands cou'd not afford " them ſufficient Suſtenance, ſent out Three " hundred thouſand Souls to ſeek for new " Habitations. Part of theſe ſeated themſelves " in *Italy*; who both took and burnt the City " of *Rome*. Another part penetrated as far as " the Shores of *Dalmatia*, deſtroying infinite " Numbers of the *Barbarians*, and ſettled themſelves at laſt in *Pannonia*. A hardy bold and " warlike Nation; who ventured next after *Hercules*, (to whom the like Attempt gave a " Reputation of extraordinary Valour, and a " Title to Immortality) to croſs thoſe almoſt " inacceſſible Rocks of the *Alps*, and Places " ſcarce paſſable by Reaſon of the Cold: " Where after having totally ſubdued the *Pannonians* they waged War with the bordering " Provinces for many Years. —— And afterwards —— being encouraged by their Succeſs, " ſubdivided their Parties; when ſome took " their Way to *Græcia*, ſome to *Macedonia*, deſtroying all before them with Fire and " Sword. And ſo great was the Terror of the " Name of the *Gauls*, that ſeveral Kings (not in " the leaſt threatned by them) of their own accord, purchaſed their Peace with large Sums " of Money—. And in the following Book, he

" ſays,

" ſays, —— So great was the Fruitfulneſs of " the *Gauls* at that time, that like a Swarm " they fill'd all *Aſia*. So that none of the *Eaſtern* Kings either ventured to make War " without a mercenary Army of *Gauls*, or fled " for Refuge to other than the *Gauls*, when " they were driven out of their Kingdoms. And thus much may ſuffice concerning their warlike Praiſes and Fortitude, which (as *Tacitus* tells us) was quite *gone, as ſoon as they loſt their Liberty.* Yet ſome Cities, or *Commonwealths*, (as *Plinius, lib.* 4. *cap.* 11. tells us) were permitted to continue free, after the *Romans* had reduced *Gallia* to the Form of a Province. Such were the *Nervii, Ulbaneſſes, Sueſſiones* and *Leuci*. Alſo ſome of the Confederates: and among theſe he reckons the *Lingones, Rhemi, Carnutes* and *Ædui*.

But we may eaſily learn from theſe Words of *Critognatus* the *Arvernian*, mentioned by *Cæſar, lib.* 7. what the Condition was of thoſe *Commonwealths*, which had the Misfortune to be reduced into the Form of a *Province*. " If (ſays he) " you are ignorant after what manner far diſtant Nations are uſed by the *Romans*, you have no more to do, but to look " at our neighbouring *Gallia*, now reduced into the Form of a Province: Which having " its Laws and Cuſtoms chang'd, and being " ſubjected to the Power of the *Axes*, is oppreſs'd with perpetual Slavery.

We are to underſtand, there were three kinds of Servitude, or Slavery. Firſt, *To have a Gariſon of Soldiers impoſed upon them, to keep them in Awe*; yet ſuch Provinces as ſeemed peaceable and quiet, had no great Armies maintained in them. For *Joſephus* writes in his

his 2d Book of the Hiſt. of the *Jews*, " That " in the Emperor *Titus*'s time, the *Romans* had " but 1200 Soldiers in Gariſon in all *Gaul*, al- " tho' (ſays he) they had fought with the " *Romans* for their Liberty, almoſt 800 Years, " and had near as many Cities, as the *Romans* " had Gariſon-Soldiers. A Second Sort of Servitude was, when any Province was made Tributary, and compelled to pay Taxes; and to that End were forced to endure a Number of Tax-gatherers, that is, *Harpies* and *Leeches*, which ſuck'd out the very Blood of the *Provincials*. *Eutropius* tells us, in his 6th Book, That *Cæſar*, as ſoon as he had ſubdued *Gaul*, impos'd a Tax upon it, by the Name of a Tribute, which amounted to *H. S. Quadringenties*: which is about a Million of our Crowns. A Third Sort of Servitude was, when the Provinces were not permitted to be govern'd by their *own Laws*; but had Magiſtrates and Judges, with full Power and Authority (*cum imperio & ſecuribus*) over Life and Eſtate, ſent them by the People of *Rome*. This Threefold Slavery not only our *Gallia*, but all the other Provinces, took moſt bitterly to heart; and therefore in *Tiberius*'s Reign, not long after *Cæſar*'s Conqueſt, *Tacitus* tells us, That the Cities of *Gaul* rebell'd, becauſe of the Continuance of Taxes, the Extortions of Uſurers, and Inſolence of the Soldiery. And afterwards in *Nero*'s Reign, *Suetonius* writes, " That the " *Gauls* being weary of his Tyranny, revolted. " The World (ſays he) having for near 13 " Years, endured ſuch a Sort of Prince, at laſt " ſhook him off: The *Gauls* beginning the " Defection. Now all *Gallia* was divided by the *Romans* into 16 Provinces, *viz. Viennenſis*,

Narbonenſis prima, *Narbonenſis ſecunda*, *Aquitania prima*, *Aquitania ſecunda*, *Novempopulana*, *Alpes maritimæ*, *Belgica prima*, *Belgica ſecunda*, *Germania prima* *Germania ſecunda*, *Lugdunenſis prima*, *Lugdunenſis ſecunda*, *Lugdunenſis tertia*, *Maxima Sequanorum*, & *Alpes Græcæ*, as *Antoninus* in his *Itinerary*, and *Sextus Rufus*, give an Account of them. But *Ammianus Marcellinus* treats of them more particularly.

Lib. 15. But to return to what we were ſpeaking of: 'Tis not to be imagined, how grievouſly, and with what Indignation, the *Gauls* bore the Inſolencies and Plunderings of the *Romans*; not how frequently they revolted upon that Account: and becauſe they were not ſtrong enough of themſelves to ſhake off the *Roman* Tyranny, 'twas a common Cuſtom with them to hire *German* Auxiliaries. Theſe were the firſt Beginnings of the Colonies of the *Franks*: For thoſe *Germans*, whether they were beaten by the *Romans*, or (which is more likely) were bought off by them, began by little and little to ſettle themſelves in the Borders of *Gallia*. This gave occaſion to *Suetonius*, in his Life of *Auguſtus*, to ſay, —— "He drove the *Germans* "beyond the River *Elb*; but the *Suevi* and *Sicambri* (ſubmitting themſelves) he tranſplanted into *Gallia*, where he aſſign'd them Lands "near the River *Rhine*——. Alſo in his Life of *Tiberius*, —— "He brought (ſays he) forty "thouſand of thoſe that had ſurrendred themſelves in the *German* War, over into *Gallia*, "and allotted them Settlements upon the "Banks of the *Rhine*. —— Neither muſt we omit what *Flavius Vopiſcus* records, concerning the Reign of *Probus* the Emperor, in whoſe time almoſt all *Gallia*, that is, ſixty Cities, revolted

volted from the *Romans*; and with common Consent, took up Arms for the Recovery of their Liberty: —— "Having done these things "(says he) he march'd with a vast Army into "*Gaul*, which after *Posthumus*'s Death was all "in Commotion, and when *Aurelianus* was "kill'd, was in a Manner possessed by the "*Germans*; there he gain'd so many Victories, "that he recover'd from the *Barbarians* sixty "of the most noble Cities of *Gallia*: And "whereas they had overspread all *Gallia* with-"out Controul, he slew near four hundred "thousand of those that had seated themselves "within the *Roman* Territories, and transplant-"ed the Remainders of them beyond the Rivers "*Neckar*, and *Elb*.

But how cruel and inhuman the Domination of the *Romans* was in *Gallia*: How intolerable their Exactions were: What horrible and wicked Lives they led; and with how great Inveteracy and Bitterness they were hated upon that Account by the *Gauls*, (especially by the *Christians*) may best be learn'd from the Works of *Salvianus*, Bishop of *Marseilles*, which treat of Providence: Therefore 'tis incredible to tell, what Multitudes of *Germans* pour'd themselves into *Gallia*; the *Gauls* not only not hindring, but even favouring and calling them in. *Latinus Pacatus*, in his Speech to *Theodosius*, has this Passage; "From whence should I begin "my Discourse, but from thy Mischiefs, O "*Gallia*! who may'st justly challenge a Supe-"riority in Sufferings, above all the Nations of "the Earth, that have been vexed with this "Plague? —— Now 'tis most plain both from *Sidonius Apollinaris*, and especially from the a-bove-mentioned *Salvianus*, in many Places of

his Writings, that our *Franks* were a Part of those *German* Nations, who thus entred into *Gallia*.

CHAP. IV.

Of the Original of the Franks; *who having poſſeſſed themſelves of* Gallia, *changed its Name into that of* Francia, *or* Francogallia.

THE Order of our Diſcourſe requires, that we ſhould now enquire into the Original of the *Franks*, and trace them from their firſt Habitations, or (as it were) their very Cradles: In which Diſquiſition 'tis very much to be admired, that no mention has been made of them by *Ptolomy*, *Strabo*, or even by *Tacitus* himſelf, who of all Writers was moſt accurate in deſcribing the Names and Situations of all the *German* Nations: and 'tis plain, the *Franks* were a *German* People, who poſſeſſed moſt part of *Europe* for many Years, with great Reputation; of which we will quote but a few Inſtances out of many.

Firſt, *Johannes Nauclerus* ſays thus,— "*Charles* "the Great was call'd *King* of the *Franks*; "which is as much as to ſay, *King* of *Germany* "and *France*. Now 'tis demonſtrable, that at that time all *Gallia Tranſalpina*, and all *Germany* from the *Pyrenean* Mountains, as far as *Hungary*, was called *Francia*: This laſt was called *Eaſtern*

Eaſtern France, the former *Weſtern France*; and in this all true Hiſtorians agree.

Eguinarthus, in his Life of *Charlemain*, ſays, —— "The Banks of the River *Sala*, "which divides the *Turingi* from the *Sorabi*, "were afterwards inhabited by thoſe called the "*Eaſtern Franks*. *Otto Friſing. Chron.* 5. *cap.* 4. ſpeaking of King *Dagaber*'s Reign, "The "Bounds of the *Franks* Dominions reach'd "now (ſays he) from *Spain*, as far as *Hungary*, "being two moſt noble Dukedoms, *Aquitania* "and *Bavaria*; —— but much more at large, *lib.* 6. *cap.* 17. And after him *Godfrey* of *Viterbo*, in his *Chronic. part.* 17. *ſub Anno* 881. "*Arnulphus* (ſays he) ruled all *Eaſtern Francia*, "which is now called the *Teutonick* Kingdom, "or *Germany*; that is to ſay, *Bavaria*, *Suabia*, "*Saxonia*, *Turingia*, *Friſia*, and *Lotharingia*: "but *Odo* was King of *Weſtern France*. Again, *ſub Anno* 913. "It is apparent by the Autho-"rity of many Writers, that the Kingdom of "*Germany*, which the Emperor *Frederick* at "preſent holds, is part of the Kingdom of "the *Franks*; for there (on both Sides the "*Rhine*) the firſt *Franks* were ſeated; which "as far as to the Limits of *Bavaria*, is now "called *Eaſtern France*: But *Weſtern France* is "that Kingdom which lies on both Sides the "Rivers *Seine* and *Loire*—. And again he ſays, "In the time of *Charles* the Great, King "of the *Franks*, all *Gallia*, that is, *Celtica*, *Bel-*"*gica*, and *Lugdunenſis*, and all *Germany* which "reaches from the *Rhine* as far as *Dalmatia*, "made but one Kingdom, which was called "*Francia*. —— Almoſt all which Quotations have been taken out of *Otto*, as I ſaid before. 'Tis to be noted, that *Rhegino* writes thus, in

Chron. anni 577. —— " After the Death of " King *Pipin*, *Lewis* his Son (who had been " present at his Father's Decease, and celebra- " ted his Funerals) kept his Residence at " *Francfort*, the principal Seat of the *Eastern* " *Kingdom*. *Luitprandus Ticinensis* says, *lib.* 1. *cap.* 6. ——. " It was order'd that *Wido* shou'd " have for his Share, that which Men call the " *Roman France*, and *Berengarius* shou'd have " *Italy*. And a little after, —— When he had " march'd thro' the Territories of the *Burgun-* " *dians*, he purposed to enter *Roman France*, &c. Now it was call'd *Roman France*, first, because the *Franks* had possessed themselves of that *Gallia*, which was under the *Roman* Obedience. Secondly, because the *Roman* Language prevail'd in that Country, as we formerly told you: Whence arose the Saying, *Loqui Romanum*, of such as used not the *German* or *Frank*, but the *Latin* Tongue. *Otto Frisingius*, *chron.* 4. *cap. penult.* says, —— " It seems to me, that those " *Franks* who dwell in *Gallia*, borrowed the " Language, which they make use of to this " Day, from the *Romans*; for the others who " stay'd about the *Rhine*, and in *Germany* use " the *Teutonick* Tongue. —— And in Imitation of him, *Godfridus*, part. 17. cap. 1. —— " The " *Franks* (says he) seem to me to have learn'd " the Language which they make use of to " this Day, from the *Romans*, who formerly " dwelt in those Parts——. From all these 'tis apparent, that the Reputation and Power of the *Franks* was extraordinary great; as 'twas fitting for such as were Masters of a great Part of *Europe*.

Moreover we find, that those *Germans* which were transplanted by the Emperor *Frederick* the

the IId, into the Kingdoms of *Naples* and *Sicily*, and eſtabliſh'd there as a preſidiary Colony, were called *Franks*. *Petrus de Vineis*, *lib. epiſt.* 6. *cap.* 25. * — " *Following* (ſays he) *the Law and* " *Cuſtom of the* Franks, *in this Inſtance, that the Eldeſt Brother to* " *the Excluſion of all the Younger* " *ſucceeds, even in the Camp it ſelf.* Imp. Freder. 2. Neapol. conſtit. lib. 2. tit. 22. ſpeaking of thoſe *Franks*, " *who upon Occaſion truſted the Fortune of* " *their Lives, and of all their Eſtates, to the Event* " *of a Duel, or ſingle Combat.* And again, " — *The aforeſaid manner of Proof, which all who* " *obſerve the Rites of the* Franks *made uſe of* —. Alſo *lib.* 2. *tit.* 33. — " *which Law, our Will is,* " *ſhall in all Cauſes be common both to the* Franks " *and* Longobards.

* Theſe are only broken pieces of Sentences, to prove, that the *Germans* (eſtabliſh'd in *Naples* and *Sicily*) were called, and actually were *Franks*.

Matters being thus plain, 'tis ſtrange that *Gregory* Biſhop of *Tours* (who writ concerning the Original of the *Franks* 800 Years ago) ſhou'd ſay, in the firſt Part of his Hiſtory, That altho' he had made diligent Enquiry about the Riſe and Beginning of the *Franks*, he cou'd find nothing certain: notwithſtanding he had ſeen an ancient Book of a certain Hiſtorian of theirs, called, *Sulpitius Alexander*; who affirms nothing either of their firſt Habitations, or the Beginnings of their Domination.

But we have found out, that theſe People originally came from that Country which lies between the *Rhine* and the *Elb*, and is bounded on the *Weſt* by the Sea, almoſt in the ſame Tract where the greateſt and the leſſer *Chauci* dwelt. " A People (ſays *Tacitus*) the moſt noble " among all the *Germans*, who founded their

" Greatneſs and maintained it by Juſtice. Theſe were next Neighbours to the *Bataviani*; for 'tis agreed on all Hands, that the *Franks* had their firſt Seats near the Sea-ſhore, in very marſhy Grounds; and were the moſt skilful People in Navigation, and Sea-fights, known at that time: Whereof we have the following Teſtimonies. Firſt, in *Claudian*, who congratulating *Stilicon*'s Victory, writes thus;

—*Ut jam trans fluvium non indignante* Chayco
Paſcat Belga *pecus, mediumque ingreſſa per* Albin
Gallica Francorum *montes armenta pererrent.*

In which Place he makes uſe of a Poetical Licenſe, and calls thoſe People *Chayci*, which the Geographers call *Chauci*. Now that they were ſeated near the Sea, that Panegyrical Oration made to *Conſtantine* the Great, is a Teſtimony: " *Quid loquar rurſus*, &c. What ſhould I ſpeak " more of thoſe remote Nations of the *Franks*, " tranſplanted not from Places which the *Romans* of old invaded; but plucked from their " very original Habitations, and their *farthest* " *Barbarous Shores*, to be planted in the waſte " Places of *Gallia*; where with their Husbandry, they may help the *Roman* Empire in " time of Peace; and with their Bodies, ſupply its Armies in time of War—. And in another Panegyrick, by *Eumenius* the Rhetorician, we find this Paſſage, " *Aut hæc ipſa*, &c. " Or this Country, which was once overſpread " with the Fierceneſs of the *Franks*, more " than if the Waters of their Rivers, *or their* " *Sea*, had cover'd it; but now ceaſes to be barbarous, and is civilized. To the ſame Purpoſe is *Procopius*'s Teſtimony, in his firſt Book of

of the *Gothick War*; for where he deſcribes the place where the *Rhine* falls into the Ocean; "In theſe Parts (ſays he) there are great "Marſhes, where of old the *Germans* dwelt; "a barbarous People, and at that time of ſmall "Reputation, which now are called *Franks* ——. And *Zonarus*, in the 3d Tome of his *Annals*, quotes this very Paſſage of *Procopius*. Alſo *Flavius Vopiſcus*, in his Life of *Probus*, tells us, That the *Franks* were diſcomfited by *Probus* in their inacceſſible Marſhes. —*Teſtes ſunt Franci inviis ſtrati paludibus.* Alſo *Sidonius Apollinaris* ſays thus;

"*Francorum & penitiſſimas paludes,*
"*Intrares venerantibus Sicambris.*

Now what we have ſaid concerning the Neighbourhood of the *Franks* to the *Chauci*, may be plainly proved by comparing of Places, and the Deſcriptions of their particular Seats. Thoſe of the *Chauci* are deſcribed by *Pliny*, *lib.* 16. *cap.* 1. Thoſe of the *Franks* by the *Rhetorician Panegyriſt*, above-mentioned: For *Pliny* ſays thus, "We have ſeen in the *Northern* "parts the Nations of the *Chauci*, called "*Majores & Minores*, where twice every 24 "Hours the Ocean is forcibly driven in a "great way over the Land, thro' a vaſt Paſ- "ſage which is there, making it a pepetual "Controverſy of Nature; and a Doubt, "whether it ought to be reckon'd part of the "Land or of the Sea.

The Panegyriſt ſpeaks in theſe Terms, "—*Quanquam illa Regio*, &c. When thy noble "Expeditions, O *Cæſar*, have proceeded ſo "far, as to clear and conquer that Country, which

"which the *Rhine* runs through, with his cunning Meanders or Windings, [*Meatibus callidis*, for so it must be read, and not *Scaldis*, as in some Copies,] and embraces in his Arms a Region, which I can scarce call Land; 'tis so soak'd with Water, that not only the Marshy part of it gives way, but even that which seems more firm, shakes when trod upon, and trembles at a Distance under the Weight of the Foot.

We think therefore we have made it plain from what *Seats* the Nation of the *Franks* first came into *Gallia*; that is to say, from that marshy Country which lies upon the *Ocean*, between the Rivers *Elb* and *Rhine*: which may be further confirm'd by this Argument. That the *Franks* were very well skill'd in maritime affairs, and sail'd far and near all about those Coasts: For so says *Eutropius*, lib. 9. where he gives a short History of the Emperor *Galienus*. "After this time, when *Carausius* had in charge "to scour the Sea-coasts of *Belgia* and *Armorica*, then infested by the *Franks* and *Saxons*, &c. The very same thing *Paulus Orosius* mentions, lib. 7. Also what the *Panegyrist*, before cited, says in a certain Place, has Reference to this—"The *Franks* (says he) are cruel above all "others; the tide of whose warlike Fury surmounting that of their very Ocean it self, "carried them to the Sea-coasts of *Spain*, which "they very much infested with their Depreda"tions. And therefore the Emperor *Justinian*, when he explains to the *General Governor* of *Africk* the duty of his Office, makes mention of those *Franks* which were seated in a certain part of *Gallia*, bordering upon *Spain*.

But

But we find a very memorable Paſſage, which highly ſets forth the great Glory of their warlike Atchievements, in another place of that Panegyrick; *viz.* That a ſmall Body of *Franks*, which *Probus* the Emperor had overcome and carried captive into *Pontus*, ſeiz'd on ſome Ships, wandred all about the Sea-coaſts of *Gracia* and *Aſia*, invaded *Sicily*, took *Syracuſa*, and afterwards laden with Booty, return'd into the Ocean thro' the *Streights* of *Gibraltar*. "Recurſabat in animos ſub *Divo Probo* & paucorum ex "*Francis* Captivorum incredibilis audacia, & "indigna felicitas: qui à Ponto uſque correptis navibus, Graciam Aſiamque populati, "nec impunè pleriſque Lybiæ littoribus appulſi, ipſas poſtremò navalibus quondam victoriis nobiles ceperant Syracuſas: & immenſo "itinere permenſi, Oceanum, qua terras rupit "intraverant; atque ita eventu temeritatis "oſtenderant, nihil eſſe clauſum piraticæ deſperationi quò navigiis pateret acceſſus.

And, as farther Arguments of what I have been proving, may be added all thoſe Places in ſeveral Authors, which inform us that the Habitations of the *Franks* were Bordering upon the *Batavians*. The ſame *Rhetorician*, in his Speeches to *Maximianus* and *Conſtantine*, ſays,— "Many thouſand *Franks*, who had croſſed the "*Rhine*, and invaded *Batavia*, with other Countries on this Side, were ſlain, driven out, or "carried away captive.

Beſides there is a notable Inſtance in *Corn. Tacitus*, lib. 20. where ſpeaking of the Neighbourhood of *Friſia* and *Batavia* to each other, he mixes the *Caninefates* among them, whoſe Cuſtom in Electing their Kings was (as I ſhall hereafter ſhew) the very ſame with that of the *Franks*.

Franks.— "Ambaſſadors (ſays he) were ſent "to the *Caninefates*, to perſuade them to enter "into the Confederacy: That People inhabit "one part of the Iſland, equal as to their "Deſcent, Laws and Valour, to the *Batavians*; "but inferior in Number.—And again—*Brin-* "*nio* being ſet upon a Shield (according to "the Cuſtom of the Country) and hoiſted up "on Men's Shoulders, was choſen their Com- "mander. Which Words will prove of no ſmall Authority for us, when we come hereafter to that Part of the Controverſy.

The Caſe being ſo; I cannot forbear wondring at the Opinion of the Learned *Andreas Tiraqueau*, who deſpiſing the Authority of ſo many grave and ancient Writers, ſays, that he thinks the *Franks* were originally of *Scandinavia*: becauſe in *Ptolomy* he finds the *Phiraſſi* ſeated in that Peninſula, which Word he will needs ſuppoſe to be corrupted; and that, inſtead of it, the Word *Franci* ought to be there: but brings no Reaſon for his Opinion more than his own mere gueſs, tho' this Opinion differs manifeſtly from all other ancient Authors.

As to all thoſe who are pleas'd with Fables, and have deduced the Original of the *Franks* from the *Trojans*, and from one *Francion*, a Son of *Priam*, we can only ſay, that they furniſh Materials for *Poets* rather than *Hiſtorians*: And among ſuch, *William Bellay* deſerves the firſt Place; who, tho' he was a Perſon of ſingular Learning and extraordinary Ingenuity; yet in his Book, which treats of the Antiquities of *Gallia* and *France*, ſeems rather to have deſign'd a *Romance*, like that of *Amadis*, than a true Hiſtory of the *Francogallican* Affairs.

CHAP.

CHAP. V.

Of the Name of the Franks, *and their ſundry Excurſions; and what time they firſt began to eſtabliſh a Kingdom in* Gallia.

BUT I think it requiſite that we ſhou'd enquire a little more carefully into this Name of *Franks*; which, as we told you before, is not to be found in any of the ancient Deſcriptions of *Germany*. That I may no longer detain the Reader in Suſpence, it muſt needs be, that either the Nation of the *Franks*, by which ſuch mighty things were done, was at firſt very obſcure and mean, (as we ſee in *Switz*, an ordinary Village;) yet becauſe the firſt beginning of the Liberty of thoſe Countries proceeded from thence, gave the name of *Switzers* to all the reſt of the *Cantons*: Or (which ſeems to me moſt probable) this Appellation had its Original from the Occaſion; *viz.* When thoſe that ſet up for the prime Leaders and Beginners, in recovering the publick Liberty, called themſelves *Franks*; by which name the *Germans* underſtood ſuch as were *Free*, and under no Servitude; as the Writers of that Nation do unanimouſly hold: And therefore in ordinary Speech, by a *Frank* was meant a *Freeman*, by a *Franchiſe*, an *Aſylum*, or Place of Refuge; and *Franciſare* ſignified to reſtore to liberty and freedom. The firſt Proof we ſhall give of this, is, what *Procopius* in his firſt Book of the *Gothick* Wars

Wars relates. The *Franks* (says he) were anciently by a general name call'd *Germans*; but after they exceeded their Limits, they obtain'd the name of *Franks*: Of the same Opinion I find *Gregory* of *Tours*, the *Abbot* of *Urspeng*, *Sigibertus* and *Ado* of *Vienne*, and *Godfrey* of *Viterbo* to have been; *viz.* That they had the Name of *Franks* from their *freedom*, and from their *ferocity*, (alluding to the sound of the words *Francos Feroces*,) because they refused to serve as Soldiers under *Valentinian* the Emperor, and to pay Tribute as other Nations did. A second Proof may be that of *Cornelius Tacitus*, who in his 10th Book, speaking of the *Camnefates*, whom we have formerly demonstrated to have been the very next Neighbours, if not the true *Franks* themselves, and of their Victory over the *Romans*, he has this expression: *Clarissima victoria, &c.* "That Victory (says he) was of great Reputation to them immediately after it, and of great Profit in the Sequel, for having by that Means got both Weapons and Ships into their Possession, which before they were in great want of; their Fame was spread over all *Germany* and *Gaul*, as being the first *beginners* of Liberty; *Libertatis Auctores celebrabantur*. For the *Germans* thereupon sent Ambassadors, offering their Assistance. May the *Omen* prove lucky! and may the *Franks* truly and properly deserve that name; who after having shaken off that Yoke of *Slavery*, imposed upon them by *Tyrants*, have thought fit to preserve to themselves a commendable *liberty*, even under the Domination of *Kings*: *For to obey a King is not servitude*: neither are all who are govern'd by Kings, presently for that Reason to be counted *Slaves*, but such as submit themselves to the unbounded

bounded Will of a *Tyrant*, a *Thief*, and *Executioner*, as Sheep resign themselves to the Knife of the Butcher. Such as these deserve to be called by the vile names of *Servants* and *Slaves*.

Therefore the *Franks* had always *Kings*, even at that very time when they profess'd themselves the *vindicators* and *assertors* of the *publick liberty*; And when they constituted *Kings*, they never intended they shou'd be *Tyrants* or *Executioners*, but *keepers* of their *Liberties*, *Protectors*, *Governors*, and *Tutors*. Such, in short, as we shall describe hereafter, when we come to give an Account of the *Francogallican* Government.

For, as to what a certain, foolish and ignorant *Monk*, called *John Turpin*, has wrote (in his Life, or rather Romance of *Charlemagn*) concerning the Original of the Word *Frank*, viz. That whoever contributed Money towards the Building of St. *Denis*'s *Church*, shou'd be called *Francus*, that is, a Freeman; is not worthy of being remembred, no more than all the rest of his trifling Works, stuff'd full of old Wives Tales, and meer Impertinencies.

But this may be truly affirm'd, that this name of *Franks*, or (as *Cornelius Tacitus* interprets it,) *Authors* of *Liberty*, was an *Omen* so lucky and fortunate to them, that through it they gain'd almost innumerable Victories. For after the *Franks* had quitted their ancient Seats upon that glorious Design, they deliver'd not only *Germany*, their common Country, but also *France* from the Tyranny and Oppression of the *Romans*; and at last (crossing the *Alps*) even a great part of *Italy* it self.

The first mention made of this illustrious name, we find in *Trebellius Pollio*'s Life of the Emperor *Gallienus*, about the 260th Year after *Christ*.

Christ. His Words are these; "*Cum*, &c. "Whilst *Gallienus* spent his time in nothing "but Gluttony and shameful Practices, and "govern'd the Commonwealth after so ri- "diculous a manner, that it was like Boys "play, when they set up Kings in jest among "themselves; the *Gauls*, who naturally hate "luxurious Princes, elected *Postbumus* for their "Emperor, who at that time was *Gallienus*'s "Lieutenant in *Gaul* with imperial Authority. "*Gallienus* thereupon commenced a War with "*Postbumus*; and *Postbumus* being assisted by "many Auxiliaries, both of the *Celtæ* and the "*Franks*, took the Field along with *Victorinus*.— By which Words we may plainly perceive, that the *Gauls* crav'd the Assistance of the *Franks*; that is, of these *Authors* or *Beginners of Liberty*, to enable them to shake off the Tyrant *Gallienus*'s Yoke. Which same thing *Zonaras* hints at in his Life of *Gallienus*, when he says, Ἀναι- μὲν ἡ φρουρὰ, &c.—We find another mention made of the same People in *Flavius Vopiscus*'s Life of *Aurelian*, in these Words:— "At *Mentz* "the Tribune of the 6th Legion discomfited the "*Franks*, who had made Incursions, and over- "spread all *Gallia*; he slew 700, and sold 300 "Captives for Slaves.—For you must not ex- pect that our *Franks*, any more than other Na- tions in their Wars, were constantly victorious, and crown'd with Success. On the contrary, we read that *Constantine*, afterwards call'd the *Great*, took Prisoners two of their Kings, and expos'd them to the Wild Beasts at the publick shews. Which Story both *Eutropius* in his 9th Book, and the *Rhetorician* in that Panegyrick so often quoted, make mention of.

And

And because the same *Rhetorician* in another place speaks of those Wars in the Confines of the *Batavi*, which we have shewn not to be far distant from the *Franks*, I will set down his Words at Length. *Multa Francorum millia, &c.* "He slew, drove out, and took Prisoners ma-"ny thousand *Franks*, who had invaded *Ba-"tavia*, and other Territories on this side the "*Rhine*. And in another Place says, He clear'd "the Country of the *Batavians*, which had "before been possess'd by several Nations and "Kings of the *Franks*; and not satisfied with "only overcoming them, he transplanted them "into the *Roman* Territories, and forced them "to lay aside their Fierceness as well as their "Weapons. From which place we are given to understand, not obscurely, that *Constantine*, (being constrain'd to do so by the *Franks*) granted them Lands within the Bounds of the *Roman* Empire. *Ammianus*, lib. 15. writes, that the *Franks*, during the Civil Wars between *Constantine* and *Licinius*, sided with *Constantine*, and fought very valiantly for him. And in other places of the same Book he records, that during the Reign of *Constantina*, the Son of *Constantine*, great numbers of *Franks* were at that *Court* in high favour and authority with *Cæsar*. "Afterwards, says he, *Malarichus* on a sudden "got power, having gained the *Franks*; where-"of at that time great numbers flourish'd at "Court.——During the Reign of *Julian*, call'd the *Apostate*, the same *Franks* endeavour'd to re-store the City of *Cologne* (which was grievously oppress'd by *Roman* Slavery) to its liberty: and forced it, after a long Siege, to surrender thro' Famine; as the same *Ammianus* tells us, *lib.* 12. And because one Band of those *Franks* fix'd their

Habitations upon the Banks of the River *Sala*, they were thereupon called *Salii*; concerning whom he writes in the ſame Book,—— "Having "prepar'd theſe things, he firſt of all march'd "towards the *Franks*; I mean thoſe *Franks* "which were commonly called *Salii*, who had "formerly with great boldneſs fix'd their Ha- "bitations within the *Roman* Territories, near "a place called *Toxiandria*. Again, in his 20th Book he makes mention of that Country poſ- ſeſs'd by the *Franks* beyond the *Rhine*, and called *Francia*.—— "Having on a ſudden paſs'd the "*Rhine*, he enter'd the Country of thoſe "*Franks* called *Attuarii*, a turbulent ſort of "People, who at that time made great Ha- "vock on the Frontiers of *Gallia*.—— And in his 30th Book, where he ſpeaks of King *Ma- crianus*, with whom *Valentinian* the Emperor had lately made a Peace on the Banks of the *Rhine*, in the Territory of *Mentz*,——He died, ſays he, "in *Francia*, whilſt he was utterly waſting "with Fire and Sword all before him, being "kill'd in an Ambuſh laid for him by that va- "liant King *Mellobandes*. Now of this *Mello- bandes*, King of the *Franks*, the ſame Author in his following Book gives this Character; "That he was brave and valiant, and upon "the ſcore of his Military Virtue conſtituted "great Maſter of the Houſhold by the Empe- "ror *Gratianus*, and Lieutenant-General (in "conjunction with *Nannienus*) of that Army "which was ſent againſt the *Lentiates*, a Peo- "ple of *Germany*. Afterwards, by virtue of a Treaty concluded between the *Franks* and the Emperor *Honorius*, they defended the Frontiers of the *Roman Gallia* againſt *Stilicon*: For *Oro- ſius* tells us in his laſt Book, "That the Nations

"of

" of the *Alani*, *Suevi* and *Vandali*, being (toge-
" ther with many others) encouraged by *Sti-*
" *licon*; pass'd the *Rhine*, wasted the Territo-
" ries of the *Franks*, and invaded *Gallia*.

After the Emperor *Honorius*'s time, we have very little in History extant concerning the *Frank*'s Warlike Deeds. For to those Times must be apply'd what St. *Ambrose* writes in his Letter (the 29th) to *Theodosius* the Emperor: That the *Franks* both in *Sicily*, and many other Places, had overthrown *Maximus* the *Roman* General. " He (says he, speaking of *Maxi-*
" *mus*) was presently beaten by the *Franks* and
" *Saxons* in all places of the Earth. But in the Reign of *Valentinian* the 3d, that is, about the 450th Year of *Christ*, 'tis plain, by the consent of all Writers, that *Childeric*, the Son of *Meroveus*, King of the *Franks*, compleated the Deliverance of *Gallia* from the *Roman* Tyranny, after a continued Struggle of more than 200 Years; and was the first that establish'd in *Gallia* a firm and certain Seat of Empire: For altho' some reckon *Pharamond* and *Clodio-crinitus* as the first Kings of the *Franks*, yet without doubt there were many before them, who (like them) had cross'd the *Rhine*, and made Irruptions into *Gallia*: but none had been able to settle any peaceable Dominion within the Limits of *Gallia*. Now *Meroveus*, who is commonly reckon'd the 3d King; tho' he was indeeed King of the *Franks*, yet he was a Stranger and a Foreigner, not created King in *Gallia*, not King of the *Francogalli*; that is to say, not elected by the joint Suffrages of both Nations united: In short, all these were Kings of the *Franci*, and not of the *Francogalli*. But *Childeric*, the Son of *Meroveus*, was (as we said be-

fore) the first that was elected by the publick Council of the associated *Franks* and *Gauls*, and he was created King of *Francogallia* presently after his Father *Meroveus* had been kill'd in a Battel against *Attila*, during the Reign of *Valentinian* the Third, a dissolute and profligate Prince. At which time the *Angli* and *Scoti* took Possession of *Great Britain*; the *Burgundians* of *Burgundy*, *Savoy* and *Dauphine*; the *Goths* of *Aquitain*; the *Vandals* of *Africk* and *Italy*, nay of *Rome* it self; the *Hunni* under their Leader *Attila* wasted *Gallia* with Fire and Sword. This *Attila* having an Army of about Five hundred thousand Men, over-ran all *Gallia* as far as *Thoulouse*. *Ætius* was at that time Governor of *Gallia*, who fearing the Power of *Attila*, made a League with the *Goths*, and by their assistance defeated *Attila* in a Battel; wherein, 'tis said, they slew no fewer than a Hundred and eighty thousand Men. But the Conqueror *Ætius* being suspected by *Valentinian* of aspiring to the Empire, was afterwards, by his Command, put to Death; and within a little while after, he himself was slain by *Maximus* before-mention'd.

During these Transactions, *Meroveus*, King of the *Franks*, taking his Opportunity, pass'd the *Rhine*, with a great Army; and joyning in Confederacy with many Cities, who assisted in the common Cause of the publick Liberty, possess'd himself at length of the innermost Cities belonging to the *Celtæ*, between the *Seine* and the *Garonne*. He being dead, and both Nations (the *Gauls* and *Franks*) united into one Commonwealth; they unanimously elected *Childeric*, the Son of *Meroveus*, for their King, placing him upon a Shield according to ancient

ent Custom; and carrying him upon their Shoulders thrice round the place of Assembly, with great Acclamations of Joy, and universal Congratulation, saluted him *King* of *Francogallia*. Of all which particulars, *Sidonius Apollinaris*, *Gregorius Turonensis*, *Otto Frising*. *Aimoinus* and others are Witnesses; whose Testimonies we shall further produce, when we come to treat of the Manner of the Inauguration of the King.

The Words of the same *Otto*, in the last Chapter but one of his 4th Book concerning their taking possession of several Cities, are these.—— "The *Franks*, after having pass'd the "*Rhine*, in the first place put to flight the *Ro*- "*mans*, who dwelt thereabouts; afterwards "they took *Tournay* and *Cambray*, Cities of "*Gallia*; and from thence gaining ground, by "degrees they subdued *Rheims*, *Soissons*, *Orleans*, "*Cologne* and *Triers*. And thus much may briefly be said touching the first King of *Francogallia*. To which we shall only subjoin this Remark: * That altho' the *Francogallican* Kingdom has lasted from that time to this, almost One thousand two hundred Years; yet during so long a space, there are but three Families reckon'd to have possess'd the Throne, *viz.* the *Merovingians*, who beginning from *Merovens*, continued it to their Posterity two hundred eighty three Years. The *Carlovingians*, who drawing their Original from *Charles the Great*, enjoy'd it 337 Years: And lastly, the *Capevingians*, who being descended from *Hugh Capet*, now rule the Kingdom, and have done so for Five hundred and eighty Years past.

* Hotoman's *Francogallia* was written *Anno* 1573.

CHAP. VI.

Whether the Kingdom of Francogallia *was* hereditary *or* elective; *and the manner of making its* Kings.

BUT here arises a famous Question; the Decision of which will most clearly shew the Wisdom of our Ancestors.——*Whether the Kingdom of* Francogallia *were Hereditary, or conferr'd by the Choice and Suffrages of the People.* That the *German* Kings were created by the *Suffrages* of the *People*, *Cornelius Tacitus*, in his Book *De moribus Germanorum*, proves plainly; and we have shewn, that our *Franks* were a *German* People: *Reges ex nobilitate, Duces ex virtute sumunt*; "Their *Kings* (says he) they chuse from "amongst those that are most eminent for "their *Nobility*; their *Generals* out of those "that are famous for their *Valour*: Which *1574. Institution, * to this very day, the *Germans*, *Danes*, *Swedes* and *Polanders* do retain. They *elect* their Kings in a *Great Council of the Nation*; the Sons of whom have this privilege (as *Tacitus* has recorded) to be preferr'd to other Candidates. I do not know whether any thing cou'd ever have been devised more prudently, or more proper for the Conversation of a Commonwealth, than this Institution. For so *Plutarch*, in his Life of *Sylla*, plainly advises. "Even (says he) as expert Hunters not only "endeavour to procure a Dog of a right good "Breed, but a Dog that is known to be a "right good Dog himself; or a Horse de-

"scended

" ſcended from a generous Sire, but a tryed
" good Horſe himſelf: Even ſo, thoſe that
" conſtitute a Commonwealth, are much mi-
" ſtaken if they have more regard to *kindred*,
" than to the *qualification* of the Prince they
" are about to ſet over them.

And that this was the Wiſdom of our Predeceſſors in conſtituting the *Francogallican Kingdom*, we may learn, Firſt, from the laſt Will and Teſtament of the Emperor *Charlemagn*, publiſh'd by *Joannes Nauclerus* and *Henricus Mutius*; in which there is this Clauſe—— " And if
" any Son ſhall hereafter be born to any of
" theſe, my three Sons, whom the People
" ſhall be *willing to Elect* to ſucceed his Father
" in the Kingdom; My Will is, that his Un-
" cles do conſent and ſuffer the Son of their
" Brother to reign over that portion of the
" Kingdom which was formerly his Father's.
Secondly, What *Aimoinus*, *lib.* 1. *cap.* 4. ſays, of *Pharamond*, commonly counted the firſt King of the *Franks*, in theſe Words.— " The *Franks*
" *electing* for themſelves a King, according to
" the cuſtom of other Nations, raiſed up *Pha-*
" *ramond* to the Regal Throne. And again,
" *lib.* 4.— But the *Franks* took a certain *Clerk*
" or *Prieſt* called *Daniel*; and as ſoon as his
" Hair was grown, *eſtabliſh'd* him in the King-
" dom, calling him *Chilperic*. And *lib.* 4. *cap.* 67.—
" King *Pipin* being dead, his two Sons, *Charles*
" and *Carlomannus*, were *elected Kings by the con-*
" *ſent of all the* Franks. And in another place—
" As ſoon as *Pipin* was dead, the *Franks* having
" appointed a ſolemn *Convention*, *conſtituted* both
" his Sons Kings over them, upon this fore-
" going condition, that they ſhould divide the
" whole Kingdom equally between them.——

And again, after the Death of one of the Brothers— "But *Charles*, after his Brother's Decease, "was *conſtituted* King by the *conſent* of all the "*Franks*. Alſo, towards the end of his Hiſtory of *Charles the Great*, he ſays, "The Nobility of "the *Franks* being ſolemnly aſſembled from "all parts of the Kingdom; he, in their preſence, called forth to him *Lewis* King of "*Aquitain*, (the only one of *Heldegardis*'s Sons "then living) and *by the advice and conſent of "them all*, conſtituted him his Aſſociate in the "whole Kingdom, and Heir of the Imperial "Dignity. Thus much out of *Aimoinus*.

Many Teſtimonies of the like nature we find in *Gregorius Turon.* whereof we ſhall cite only theſe few following, *lib.* 2. *cap.* 12.—— "The *Franks* (ſays he) having *expelled Childeric*, "unanimouſly *elected Eudo* for their King.—— Alſo *lib.* 4. *cap.* 51.—— "Then the *Franks* (who "once look'd towards *Childebert* the Elder) ſent "an Embaſſy to *Sigebert*, inviting him to leave "*Chilperic* and come to them, that they by "*their own Authority* might make him King.— And a little after—— "The whole Army was "drawn up before him; and having ſet him "upon a Shield, *they appointed* him to be their "King.——And in another place—— "*Sigibert* "agreeing to the *Franks* Propoſals, was placed "upon a Shield, according to the Cuſtom of "that Nation, and proclaimed King; and ſo "got the Kingdom from his Brother *Chilperic*— And preſently after—— "The *Burgundians* "and *Auſtraſians* concluded a Peace with the "*Franks*, and made *Clotharius* King over them "in all the three Kingdoms. Which particular the *Abbot* of *Urſperg* confirms. "The *Bur*- "*gundians* (ſays he) and *Auſtraſians* having

"ſtruck

" ſtruck up a Peace with the *Franks*, advanced
" *Clotharius* to be King and ſole Ruler of the
" whole Kingdom.—— And in another place—
" The *Franks* appointed one of his Brothers,
" called *Hilderic*, who was already King of the
" *Auſtraſians*, to be alſo their King.

To this matter belongs what *Luitprandus Ticinenſis* writes, *lib.* 1. *cap.* 6. " And when he
" was about to enter into that *Francia* which
" is called *Roman*, (after having croſs'd the
" Countries of the *Burgundians*) ſeveral Am-
" baſſadors of the *Franks* met him, acquaint-
" ing him that they were returning Home a-
" gain; becauſe being tired with long expecta-
" tion of his coming, and not able any longer
" to be without a King, they had *unanimouſly*
" Choſen *Odo* or *Wido*, tho' 'tis reported the
" *Franks* did not take *Wido* upon this occaſion
" for their King, *&c.*

But concerning this *Odo*, the Story is memorable which *Sigibert* relates; from whence we may more clearly be inform'd of the manner of their *rejecting* their King's *Son*, and *ſetting up another* in his ſtead. For (*ſub anno* 890.) he ſays thus—— " But the *Franks* neglecting
" *Charles* the Son of *Lewis the Stammerer*, a Boy
" ſcarce ten years old, Elected *Odo* for their
" King, who was Son of *Duke Robert*, ſlain by
the *Normans*. Alſo *Otto Friſing. Chronic. lib.* 6. *cap.* 10. " The *Weſtern Franks* (ſays he) with
" the conſent of *Arnolphus*, choſe for their King
" *Odo* a valiant Man, and Son of *Robert*.— Alſo in the *Appendix* to *Gregory* of *Tours*, lib. 15. cap. 20. " After the Death of *Dagobert*, *Clodoveus* his
" Son obtain'd his Father's Kingdom, being
" at that time very young, and all his *Leudes*
" (that is, Subjects) *rais'd* him to the Throne,

in

in Villa Maſolano——. Alſo *Sigebert.* in *chronic. anno* 987.—— "*Lewis* King of the *Franks* being "dead, the *Franks* had a mind to transfer the "Kingdom to *Charles* the Brother of *Lotharius*; "but whilſt he ſpent too much time, delibe- "rating with his Council concerning that Af- "fair, *Hugo* acquires the Kingdom of the "*Franks*, &c. There are many Teſtimonies of the ſame Kind in *Ado*, viz. *anno* 686.— *Clo- "dovæus* the King dying, the *Franks* elect *Clo- "tarius* his Son for their King. And again, "—*Clotarius* having reigned four Years, died, "in whoſe ſtead the *Franks* elected *Theodorick* "his Brother——. Again, *anno* 669. The "*Franks* eſtabliſh'd in the Kingdom a certain "Clerk, called *Daniel*, having cauſed him to "quit his Tonſure and Orders, and name him "*Chilperic*. And again,—— The *Franks* ap- "point, as King over them, *Theodoric* the Son "of *Dagobert*——. Alſo *Otto Friſing.* chron. 6. cap. 13.—— "*Otto* (ſays he) King of the "*Franks* being dead, *Charles* was created King "by unanimous Conſent——. The Appendix to *Greg. Turon. lib.* 11. *cap.* 101. ſays thus, "When *Theodoric* was dead, the *Franks* elected "*Clodoveus* his Son, who was very young, to "be their King. And *cap.* 106. But the *Franks* "appoint one *Chilperick* to be their King. Al- ſo *Godfrey* of *Viterbo*, *chron. part.* 17. *cap.* 4. "—But *Pipin* in being elected by the *Franks*, "was declared King by Pope *Zacharias*, *they "having thruſt their cowardly King* Hilderic *into "a Monaſtery.*

From theſe Proofs, and very many others like them, I think 'tis moſt plain, that the Kings of *Francogallia* were made ſuch rather by the *Suffrages* and *Favour* of the *People*, than by any

Hereditary Right. Of which a farther Argument may be the *Forms* and *Ceremonies* uſed by our *Anceſtors*, at the Inauguration of their *Kings*. For we obſerve, the very ſame Cuſtom was continued at the *Election* of our Kings, which we told you before out of *Cornelius Tacitus*, was formerly practiſed by the *Cauneſates*, (the *Franks* own Country-men) *viz.* that they ſet their *Elected King* upon a *Shield*, and carried him on high on Men's Shoulders. So did we; for whoever was choſen by the Votes of the People, was ſet upon a *Shield*, and carried thrice round the place of publick Meeting for *Election*, or round about the Army on Men's Shoulders, all the People expreſſing their Joy by Acclamations, and clapping of Hands. *Greg. Turon. lib.* 2. where he makes mention of King *Clodoveus*'s Election, — "But they (ſays "he) as ſoon as they heard theſe things, ap-"plauding him both with their Hands and "Tongues, and hoiſting him on a Shield, *ap-"pointed* him to be their King—. Alſo *lib.* 7. *cap.* 10. where he ſpeaks of *Gondebaldus*, — "And "there (ſays he) placing their *King* upon a "*Shield*, they lifted him up; but 'tis reported, "that as they were carrying him round the "third time, he fell down; ſo that he was "ſcarcely kept from tumbling to the very "Ground by thoſe that ſtood about him. Of which Accident *Aimoinus*, *lib.* 3. *cap.* 6. gives us this Account, —— "They called forth *Gon-"debaldus*, and according to the Cuſtom of the "ancient *Franks*, proclaimed him their King, "and hoiſted him on a Shield; and as they "were carrying him the third time round the "whole Army, of a ſudden they fell down "with him, and could ſcarce get him up again

"from

" from the Ground—. The like says *Ado. Vien.* *Etat.* 6. —— " *Sigebertus* consenting to the " *Franks*, was placed upon a Shield, according " to the *Custom of that Nation*, and proclaimed " King: And peradventure from hence arose that Form among those Writers, who treat of the Creation of a King; —*In Regem elevatus est.*

But now we come to the third Part of this Controversy, in order to understand, how great the *Right and Power of the People* was, both in *making* and *continuing* their *Kings*. And I think it is plainly prov'd from all our Annals, that the *highest Power* of *abdicating* their *Kings* was lodged in the *People*. The very first that was created King of *Francogallia*, is a remarkable Instance of his Power. For when the People had found him out to be a profligate lewd Person, wasting his time in Adulteries and Whoredoms, they removed him from his Dignity by universal Consent, and constrain'd him to depart out of the Territories of *France*; and this was done, as our Annals testify, in the Year of *Christ* 469. Nay, even *Ægidius*, whom they had placed in his stead, abusing his Power thro' excessive Pride and Cruelty, was with the like Severity *turned out*. Which Fact we find attested by *Gregory* of *Tours*, *lib.* 2. *cap.* 12. *Aimoinus*, *lib.* 1. *cap.* 7. *Godfrey* of *Viterbo*, *part.* 17. *cap.* 1. *Sigibertus*, *sub annis* 461, & 469. —— " *Childeric* (says *Gregorius*) being dissolved in Luxury, when he was King of the " *Franks*, and beginning to deflower their " Daughters, was by his Subjects *cast out of the* " *Throne with Indignation*; whereupon he finding they had a Design to kill him, fled into " *Thoringia*. But the *Abbot* of *Ursperg* says, " the People were unwilling to kill him, but

" con-

" contented themſelves with having *turn'd him*
" *out, becauſe he was a diſſolute Man*, and a De-
" baucher of his Subjects Daughters—. *Sige-*
bertus ſays, — " *Hilderick* behaving himſelf in-
" ſolently and luxurioufly, the *Franks thruſt him*
" *out of the Throne*, and made *Ægidius* their
" King.

And this moſt glorious and famous Deed of our Anceſtors, deſerves the more diligently to be remark'd, for having been done at the very Beginning, and as it were, the Infancy of that Kingdom; as if it had been a Denunciation, and Declaration, that the Kings of *Francogallia* were made ſuch, upon certain *known Terms and Conditions*; and were *not Tyrants* with *abſolute unlimited* and *arbitrary* Power.

Their Succeſſors alſo, keeping up the ſame Cuſtom, in the Year of *Chriſt* 679, forced *Childeric*, their Eleventh King, to *Abdicate*, becauſe he had behaved himſelf inſolently and wickedly in his Government. And he having formerly cauſed a certain Nobleman, called *Bodilo*, to be tied to a Stake and whipp'd, without bringing him to a Tryal, was a few Days after ſlain by the ſame *Bodilo*. Our Authors are *Aimoinus*, *lib.* 4. *cap.* 44. *Trithemius*, *anno* 678. and *Sigebertus*, *anno* 667.

The Severity of our Anceſtors appear'd in the ſame Manner a little while after, in the Inſtance of their 12th King *Theodoric*; who being a wicked and coverous Prince, " the *Franks*
" (ſays *Aimoinus*) *roſe up againſt him*, and *caſt*
" *him out of the Kingdom*, cutting off his Hair
" by *force*, lib. 4. cap. 44. —— *Ado*, Ætat. 6.
anno 696. but *Sigebertus* ſub anno 667. imputes a great many of his Crimes to *Ebroinus* his Favourite and chief General. " King *Theodorick*
" (ſays

præfectus Regius.

" (ſays he) was *depoſed* by the *Franks*, becauſe
" of the Inſolence of *Ebroinus*, and his Brother
" *Hilderick* was with unanimous Conſent *choſen*
" King. And *Ado* ſays, The *Franks* caſt *Theo-*
" *dorick* out of the Kingdom, ſhaved *Ebroinus* in
" the Monaſtery of *Lexovium*, and afterwards
" raiſed *Childerick* to be King over them. Al-
ſo the Appendix to *Greg.* of *Tours*, *lib.* 11.
cap. 64. — " The *Franks* riſe up *in Arms* againſt
" *Theodorick*, *caſt him* out of the Kingdom,
" and cut off his Hair: They ſhaved alſo E-
" *broinus*.

The like Virtue our Anceſtors exerted in the
Caſe of *Chilperick* their 18th King, whom they
* *forced to abdicate the Kingdom*, and made him a
Monk, judging him unworthy to ſit at the
Helm of ſo great an Empire, † *by reaſon of his*
Sloth. Whereof *Aimoinus*, lib. 4. cap. 61. *Si-*
gibertus and *Trithemius*, anno 750. and *Godfrey*
Chronic. part. 17. cap. 4. are our Witneſſes.

* *Regno ſe abdicare coegerunt.* † *Propter inertiam.*

Again, a ſixth Example of the like Severity
is extant in *Charles the Groſs*, their 25th King,
who for the like *Cowardiſe*, and becauſe he had
granted away part of *France* to the *Normans*,
ſuffering his Kingdom to be diſmembred, was *re-*
jected and turn'd out by the *Nobility and Gentry*
of the Kingdom, as *Sigebertus* tells us *anno* 890.
Which ſame thing *Godfridus* records, *part.* 17.
But more at large *Otto Friſing. chron.* 6. *cap.* 9.
where he adds this memorable Paſſage, — " This
" Man (ſays he) who next to *Charles the Great*,
" had been the King of greateſt Power and
" Authority of all the Kings of the *Franks*,
" was in a ſhort time reduced to ſo low a
" Condition, that he wanted Bread to eat;
" and miſerably begged a ſmall Allowance from
" *Arnolphus*, who was *choſen* King in his ſtead,

∴ *Ab optimatibus Regni repudiatas.*

" and

" and thankfully accepted of a poor Penſion:
" From whence we may obſerve the uncertain
" and miſerable State of all Human Great-
" neſs; that he who had govern'd all the *Ea-*
" *ſtern* and *Weſtern* Kingdoms, together with
" the *Roman* Empire, ſhou'd at laſt be brought
" down to ſuch a Degree of Poverty, as to
" want even Bread. A Seventh Inſtance is *Odo* the 26th King, who after he had been elected King in the Room of *Charles* the Son of *Lewis* the *Stammerer*, was in the 4th Year of his Reign, by the *Franks*, *baniſh'd* into *Aquitain*, and commanded to abide there; they replacing in his ſtead the ſame *Charles* the Son of *Lewis*. Which Fact is recorded by *Sigebertus*, ſub anno 894. *Aimoinus* lib. 5. cap. 42. and *Godfridus* part. 17.

We muſt add to this Number *Charles* the 27th King, ſirnamed (* becauſe of his *Dulneſs*) *Charles* the *Simple*: Who having thro' his Folly ſuffer'd his Kingdom to run to Decay, and loſt *Lorrain* (which he had before recover'd) was *taken and caſt into Priſon*, and *Rodolphus* was *choſen* in his place, as *Aimoinus*, *lib.* 5. *cap.* 42. and *Sigebertus*, *anno* 926. do teſtify.

* *Propter Stuporem ingenii.*

CHAP.

CHAP. VII.

What Rule was obſerv'd concernin the Inheritance of the deceaſe King, when he left more Childre than one.

ALL that we have above ſaid, tends prove, that the Kingdom of *France* in old times, did not deſcend to the Chil by *Right of Inheritance* (as a private Patrim does); but was wont to be beſtow'd by *Choice and publick Suffrages of the People*: that now there is the leſs Room left for Queſtion, — What Rule was obſerved in Relat to the Children of the deceaſed King, wh he left more than one behind him. For ſin the Supreme Power not only of *Creating*, b alſo of *deabroning* their Kings, was lodged the *Convention* of the *People*, and *Publick Counc* of the Nation; it neceſſarily follows, that *ordering* the *Succeſſion* (whether they ſhould giv it entirely to one, or divide it) was likewiſe the *People*. Altho' in this place another Que ſtion may ariſe, *viz.* ſuppoſing the People ſhou'd *reject* the Son of their King, and *elect* Stranger, whether any thing ſhould be allowed to the firſt to maintain his Dignity? For the Solution, of which 'tis to be underſtood, that Lawyers reckon four Kinds of ſuch Goods, as may be properly ſaid to be under the King's * Governance; *viz.* the Goods of *Ceſar*, the Goods of the *Exchequer*; the Goods of the *Publick*

* *In Regis ditione.*

Publick, and *Private* Goods. The Goods of *Cæſar* are ſuch as belong to the *Patrimony* of every Prince, not as he is *King*, but as he is *Ludovicus*, or *Lotharius*, or *Dagobertus*. Now this Patrimony is called by the *Gallican* Inſtitutions, *The King's Domain*; which cannot be alien'd, but by the Conſent of the *publick Council* of the Nation, as we ſhall make it appear hereafter, when we come to treat of the Authority of that *Council*. The Goods of the *Exchequer* are ſuch as are given by the *People*, partly to defend the King's Dignity, and partly appropriated to the Uſes and Exigencies of the *Commonwealth*. The Goods of the *Publick* (as the Lawyers call them) are ſuch as inſeparararably belong to the *Kingdom* and *Commonwealth*. The *private* Goods are reckon'd to be ſuch Eſtate, Goods and Fortune, as are eſteemed to belong to every Father of a Family. Therefore upon the Death of any King, if the Kingdom be conferr'd on a Stranger, the *Patrimonial* Eſtate, as Lawyers call it, (being what was not in the King's Power to alienate) ſhall deſcend by Inheritance to his Children: But that which belongs to the *Kingdom* and *Commonwealth*, muſt neceſſarily go to him who is choſen King, becauſe it is part of the *Kingdom*. Altho' it may be reaſonable, that Dukedoms, Counties, and ſuch like (by Conſent of the *publick Convention* of the People) may be aſſigned to ſuch Children for the Maintenance of their Quality; as *Otto Friſing*. Chron. 5. cap. 9. and *Godfrey* of *Viterbo*, tell us, That *Dagobert* Son of *Lotharius* being made King, aſſigned certain Towns and Villages near the *Loire*, to his Brother *Heribert* for his Maintenance. Which *Aimoinus* confirms, *lib.* 4. cap. 17. and further

adds, that he made a Bargain with him, to live as a private Perſon, and to expect no more of his Father's Kingdom. Alſo in his 61. *chap.* where he ſpeaks of King *Pipin*, " He beſtowed " (ſays he) ſome Counties on his Brother *Gri-* " *fon*, according to the *Order* of the Twelve " Peers. And to this belongs what *Greg. Turon.* writes, *lib.* 7. *cap.* 32. — " *Gondobaldus* ſent two " Ambaſſadors to the King with conſecrated " Rods in their Hands, (that no Violence " might be offer'd them by any body, accord- " ing to the Rites of the *Franks*) who ſpoke " theſe Words to the King, *Gondobaldus* ſays, " he is a Son of King *Clotharius*, and has ſent " us to claim a due Portion of his Kingdom.

But to return to the Queſtion, as far as it relates to the Succeſſion of the Kingdom; I can find out no certain Rule or Law in *Francogallia* touching that Matter; becauſe (as I ſaid before) the Kingdom was not hereditary. 'Tis true, that in many *Noble Patrimonies* there was what we call *Fiefs*, Feuda; as *Otto Friſing. lib.* 2. *cap.* 29. obſerves, " 'Tis the Cuſtom " (ſays he) in *Burgundy*, which is alſo in moſt " of the other Provinces of *France*, that the " Authority of the Paternal Inheritance al- " ways falls to the Elder Brother, and his " Children, whether Male or Female; the " others looking on him as their Lord——. And that the ſame was practiſed among the whole Nation of the *Franks*, *Petrus de Vineis*, lib. epiſt. 6. epiſt. 25. and in other Places of his Writings, ſets forth at large. But in the Succeſſion of the Kingdom a different Rule was obſerv'd. For our Records do teſtify, that in old times the Kingdom of *Francogallia*, upon the Death of the King, was very often, not

not beſtowed by the People on any one of his Sons, but divided into convenient Parcels, and a part aſſigned to each of them. Therefore when *Clodoveus* the 2d King dyed, *anno* 515. who left four Sons, *Theodorick*, *Clodoveus*, *Childebert*, and *Clotharius*, we find the Kingdom was thus divided among them; *Theodorick* had the Kingdom of *Metz* for his Share, *Clodoveus* that of *Orleans*, *Clotharius* that of *Soiſſons*, and *Childebertus* that of *Paris*, as 'tis recorded by *Agathius*, lib. hiſt. 1. *Greg. Turon.* lib. 3. cap. 1. *Aimoinus* lib. 2. cap. 1. *Rhegino* ſub anno 421.

Again, after the Death of *Clotharius* the 4th King, the Kingdom was divided among his four Sons. So that *Cherebertus* had that of *Paris*: *Guntranus*, *Orleans*: *Chilpericus*, *Soiſſons*: and *Sigebertus* that of *Rheims* ——, Greg. *lib.* 4. *cap.* 22. Aimoinus *lib.* 3. *cap.* 1. Rhegino *ſub anno* 498.

On the other hand, *Otto Friſing.* chron. 5. cap. 9. and *God. Viterb.* tell us, That about the Year 630, when *Lotharius* the 7th King died, *Dagobertus* his Son reigned *ſingly* in *France*, and aſſigned to his Brother *Heribert* ſome Cities and Villages on the River *Loire*, for his Maintenance. For from *Clodoveus*'s Time till now, the Kingdom of the *Franks* was confuſedly ſubdivided among the Sons, and the Sons Sons, each of which reigned over the part allotted him. — "The Extent of the King-"dom of the *Franks* reaching now from *Spain*, "as far as to *Hungary*: *Dagobert* being ſole "King of all the *Franks*, gave Laws to the "*Bavarians*. So ſays *Godefridus*, not without good Grounds, as many wiſe Men have thought. For, as *Juſtin* tells us, *lib.* 21. "That King-"dom will be much more potent, which re-"mains under the Domination of one Perſon,

" than when 'tis diveded among many Bro-
" thers.

But after ſome Years, when the Kingdom of the *Franks* was exceſſively enlarged on all Sides, and King *Pipin* was dead, the *General Council* of the *Gauls* changed this Method again. Which ſerves to confirm what we ſaid before; *viz.* That the *whole Power*, relating to that Matter, was lodged in that *Council*. For *Eguinarthus*, in his Life of *Charlemagn*, writes thus, " ——After King *Pipin*'s Death, the *Franks* ha-
" ving aſſembled themſelves in a *ſolemn general*
" *Convention*, did there *appoint* both his Sons to
" be their Kings, upon this Condition, that
" they ſhou'd equally divide the whole body
" of the Kingdom between them: And that
" *Charles* ſhou'd reign over that part of it,
" which their Father *Pipin* enjoy'd; and *Car-*
" *loman* over the other Part which their *Uncle*
" held.

Alſo the *Abbot of Urſperg* ſays, —— " When
" *Pipin* was dead, his two Sons *Charles* and *Car-*
" *loman*, by the *Conſent of all the Franks*, were
" created Kings, upon Condition, that they
" ſhou'd divide the whole body of the King-
" dom equally between them——. The ſame Method in dividing the Kingdom, was practiſed after the Death of *Charlemagn*, as 'tis manifeſt by his laſt Will and Teſtament, recorded by *Joannes Nauclerus*, and *Eguinarthus*'s Hiſtory of his Life. Wherein we find almoſt all *Europe* ſo divided among his three Sons, that nothing was aſſigned either as a Portion or Dower, to his Daughters; but the marrying and providing for them was entirely truſted to the Care and Prudence of their Brothers. *Otto Friſingenſis*, chron. 6. cap. 6. and *Rhegino* in chron. anno 877.

877. assure us, that the same Manner of dividing the Kingdom was practis'd in *East-France*, after the Death of *King Lewis the Stammerer*, in 874. Again, some Years after, *anno* 880. after King *Lewis* the 23d King's Death, the very same way of dividing the Kingdom was made use of; which however we are to observe, was *not in* the *Power* and *Arbitriment* of *the Kings themselves*; but done by the *Authority* of the *Publick Council*, as we may easily collect from these Words of *Aimoinus*, lib. 5. cap. 40. "The "Sons (says he) of *Lewis*, late King of the "*Franks*, met at *Amiens*, and divided their "Father's Kingdom between them, *according* "*to the Direction of their faithful Subjects.*

From all which Arguments 'tis very plain, that anciently there was no certain Law or Right of *Francogallia* touching this Matter; but the *whole Power of disposing* of it was lodged in the *Publick Council* of the Nation. Indeed afterwards in the Reign of *Philip* the 3d, (the 41st King) it was ordained, that certain Lordships might be set out and assigned to younger Brothers: But even of this Law there were various Interpretations, and many Controversies arose concerning Daughters; so that we can deliver nothing for certain in this Affair; only thus much we may truly say, That *if the Ancient Institution of our Ancestors ought to be our Rule, the Determination of this whole Matter must be left to the Publick General Council of the Nation*: that according to the Number of Children, some particular Lordships or Territories, may (*by its Authority*) be assigned for their Maintenance.

CHAP. VIII.

Of the Salick Law, *and what Right* Women *had in the King's their Father's Inheritance.*

BEcauſe we have undertaken to give an Account of the *Law* and *Right* of *Regal Inheritance*, we muſt not omit making Mention of the *Salick Law*; which is both daily diſcours'd of by our Countrymen, and in the Memory of our Forefathers ſerv'd to appeaſe a great and dangerous Contention, which aroſe touching the Succeſſion to the Crown. For when (*Anno* 1328.) *Charles the Fair*, Son of *Philip the Fair*, died, leaving his Wife with Child of a Daughter, (which ſome Months after was born) *Edward* King of *England* (Son of *Iſabella*, the Daughter of *Philip the fair*, and Siſter to *Charles* lately dead) claimed the Inheritance of his Grandfather's Kingdom as his Right. But *Philip* of *Valois*, Couſin-german by the Father's Side to the deceaſed King, ſtanding up, alledged that there was an ancient Regal Law, called the *Salick Law*, by which *all Women* were excluded from the Inheritance of the Crown. Now this Law both *Gaguinus* and other Writers of like Stamp tell us, was written by *Pharamond*; and he calls it a moſt famous Law, even to his Time. For in his Life of *Philip* of *Valois*; "The *Salick* Law (ſays he) was a Bar to *Edward*'s Title; which Law being firſt given "by *Pharamond* to the *Franks*, has been reli- "giouſly obſerved, even to thoſe Days. By "that

" that Law, only the Heirs Male of our Kings " are capable of governing the Kingdom, and " no Females can be admitted to that Dignity. " The Words of that Law are theſe: *Nulla hereditatis portio de terrâ Salicâ ad mulierem venito*; " *Let no Part of the Inheritance of* Salick *Land* " *come to a Woman.* Now (ſays *Gaguinus*) the " *French* Lawyers call *Salick* Land, ſuch as be- " longs only to the King, and is different " from the *Alodial* which concerns the Sub- " jects; to whom, by that Law, is granted a " free Dominion of any thing, not excluding " the Princely Authority. And to the ſame Purpoſe, not only almoſt all the *Francogallican Hiſtorians*, but even all the *Lawyers* and *Pettifoggers* have wrote to this Day, as *Paponius* teſtifies, *Arreſt.* lib. 4. cap. 1. So that now the miſtake has prevailed ſo far, as to have obtain'd the Force of a Law. To explain this, it muſt be remembred (which we formerly gave an Account of) that the *Franks* had two Seats of their Empire, and two Kingdoms; One in *France*, which remains to this Day; The other beyond the *Rhine*, near the River *Sala*; from whence they were called *Salii*, and *Salici Franci* (joyning the two Names together) but for the moſt part briefly *Salici*; the Kingdom of theſe laſt, and even their very Name is in a Manner extinct. *Ammianus Marcellinus* makes mention in his Hiſtory (as we told you before) of theſe *Salii*, and ſhews, that they are called the *Eaſtern Franks*, as the others were called the *Weſtern*. Now as there were two Kingdoms of the *Franks*, ſo they had different Laws: thoſe that belonged to the *Salii*, were called *Salick*; thoſe that belonged to the *Francogalli*, were called *French*. *Eguinarthus* in his Life of *Charles* the

Great ſays thus; — "After he had aſſumed "the Imperial Title, finding that his Peoples "Laws were in many Things deficient, (*for the* "Franks *have two Laws very different from each* "*other in many Caſes*,) he thought of adding "ſuch as were wanting.— The Author of the Preface to the *Salick* Law has this Paſſage.—— "The renowned Nation of the *Franks*, before "it was converted to the Catholick Faith, "enacted the *Salick* Law by the Great Men of "the Nation, who at that Time were their "Governors; and from among a great many, "four Perſons were choſen; *Wiſogaſt*, *Arbogaſt*, "*Salogaſt*, and *Windogaſt*; who, during three "Conventions [*tres mallos*] carefully peruſing "all Cauſes from their Original, gave their "Judgment and Decree of every one of them "in this Manner, *&c.* —— *Sigebertus* in Chron. anni 422. & *Otto Friſing.* lib. 4. cap. penult. make uſe of almoſt the ſame Words. "From "that time (ſay they) the Laws recommended "to them by *Wiſigaſtaldus* and *Salogaſtus*, be-"gan to be in Force. By this *Salogaſtus*, they "tell us, that Law was invented, which from "his Name is to this Day called the *Salick* Law; "and the moſt noble of the *Franks*, called *Sa-"lici*, obſerve it at this time. —— Thus ſay the old Chronographers. By which we may refute the Error of ſuch as derive the *Salick* Law, a *Sale*, that is, *Prudence*; or what is called corruptly *Lex Salica*, inſtead of *Gallica*; than which nothing can be more abſurd. But much greater Errors ſpring from the ſame Fountain: Firſt, That People are ſo far impoſed upon by thoſe Authors, as to believe the *Salick* Law had reference to the *Publick Right* of the *Commonwealth* and the *Government*, alſo to the *Hereditary Succeſſion*

ceſſion of the Kingdom. Now the very Records or Tables of this *Salick* Law were not many Years ago found and brought to Light; from whoſe Inſcription it appears, that they were firſt written and publiſh'd about *Pharamond*'s time: Beſides, that all the Heads and Articles, both of the *Salick* and *French* Laws, were Conſtitutions relating only to *private Right* between Man and Man, and meddled not with the *Publick* Right of the Kingdom or Commonwealth: among the reſt, one Chapter, *tit.* 62. has this in it. —— "Of the *Salick* Land, "no Part or Portion of Inheritance paſſes to a "Female; but this falls to the Male Off-ſpring; "that is, the Sons ſhall ſucceed to the Inheri-"tance: But where a Diſpute ſhall ariſe (after a "long Courſe of Time) among the Grandſons "and great Grandſons, *de* **alode terræ*; let it be "divided, *Non per ſtirpes ſed per capita.* The like Law, *Extat apud* Ripuarios, *tit.* 58. *Item apud* Anglos, *tit.* 7. Where they are ſo far from enacting any thing relating to the Inheritances of Kingdoms, that they do not ſo much as affect *Feudal* Succeſſions, but only belong to *Allodial*; altho' a Portion was aſſigned to Women out of thoſe *Allodial* Lands. Which Way ſoever this Matter may be, 'tis manifeſt in the firſt Place, that altho' no Article, either of the *Frank* or *Salick* Law were extant, which debars Women from the Inheritance of the Crown; yet the Cuſtoms and Inſtitutions of a Nation, preſerv'd inviolate by univerſal Conſent, during ſo many Ages, obtain the Force of a written Law; For tho' *Childeric*, the Third King, left two Daughters behind him at his Death, the Kingdom was given to his Brother *Lotharius*, and his Daughters excluded. Again, after

* *Allodium* is the contrary to *Feudum*: *Gothick* Words, for which 'tis difficult to find proper *Engliſh*.

ter the Death of *Cherebert* the 5th King, who left three Daughters; the Succession devolv'd upon his Brother *Sigebert*. Also when *Gontrannus* King of *Burgundy* and *Orleans* died, the Kingdom was conferr'd on his Brother *Sigebert*, not on his Daughter *Clotilda*. Lastly, *Philip* of *Valois*'s Advocates might with greater Caution, as well as Efficacy, have argued for him out of the *Feudal* Law, by which all Inheritances of *Fiefs* descend to the Male Issue only, and not to the Female, who are not admitted to them. And when there happens a Want of Heirs Males in that Line or Branch wherein the Fief is lodged, then the *Feudum* or *Fief* returns back to the other Stock or Branch: which was the very Case at that Time. But such Fiefs as thro' a Depravation of the Law, are convey'd down to Women, cannot properly be called *Feuda*, but *Feudastra*, as in other of our Writings we have made it appear.

CHAP. IX.

Of the Right of Wearing a large Head of Hair peculiar to the Royal Family.

IT will not be amiss in this Place to give some Account of a Custom of our Ancestors, relating to the Hair worn by the Royal Family: For 'tis recorded, that our Forefathers had a particular Law concerning it; *viz.* That such as were chosen Kings by the People, or were of

of the Regal Family, shou'd preserve their Hair, and wear it parted from the Forehead, on both Sides the Head, and anointed with sweet Oyl, as an Ornament and peculiar Mark of their being of the Royal Family; whilst all other Persons, how nobly born soever, had no right to wear a large Head of Hair; but were obliged to go with their Heads shorn or shaved, upon the Account (as 'tis probable) that they shou'd be more ready and expedite in their continual military Exercises, as the *Roman* Histories tell us of *Julius Cesar*, and several others. *Aimoinus*, lib. 1. cap. 4. says —— "The *Franks* "chusing for themselves a King, according to "the Custom of other Nations, raised, *Pharamond* to the Throne, to whom succeeded his "Son *Clodio-crinitus*; For at that Time the "Kings of the *Franks* wore large Heads of Hair, "Also lib. 3. cap. 61. *Gundoaldus* being brought "up by his Mother after the regal Manner, "wore a long Head of Hair, according to the "Custom of the ancient Kings of the *Franks*. In like Manner *Agathias*, lib. de Bell. Goth. 1, where he speaks of *Clodoveus*, one of our Kings, who was taken in Battel by the *Burgundians*, (he calls him *Clodamirus*). "As soon (says he) "as his Horse had thrown him, the *Burgundi-*"*ans* espying his large Head of Hair, which "fell back over his Shoulders, presently knew "him to be the Enemy's *General*; for 'tis not "lawful for the Kings of the *Franks* to cut off "their Hair, but even from their Childhood "they remain untrimm'd, and always keep a "large Head of Hair hanging low down upon "their Backs. And we have many Instances that it was our Ancestors Custom, whenever they either deprived any one of the Crown,

or

or took away all Hopes of obtaining the Kingdom, to cut off his Head of Hair. *Aimoinus* in the ſame Place—— "He earneſtly beholding "him, commanded his Hair to be cut off, de- "nying him to be his Son.——Alſo——Having "cauſed his Hair to be cut off a ſecond Time, "he put him in Priſon at *Cologne*; from whence "making his Eſcape, he fled to *Narſes*, and ſuf- "fer'd his Hair to grow again, *&c.* Which Story *Gregory* of *Tours*, lib. 6. cap. 24. likewiſe records. Alſo *cap.* 44. where he ſpeaks of King *Theodorick*.— "The *Franks* (ſays he) roſe "up in Arms againſt him, and caſt him out of "the Kingdom, and cut off his Head of Hair "by Force. But there is a very remarkable, or "rather horrible Story related by *Gregory* of "*Tours*, concerning *Crotilda*, the Queen Mother; who choſe rather to have the Heads of her two Grandſons cut off than their Hair. 'Tis in his 3d Book, *cap.* 18.—— "Our Mother (ſays the "King to his Brother) has kept our Brother's "Sons with her, and intends to advance them "to the Throne; we muſt concert what Mea- "ſures ought to be taken in this Affair; whe- "ther we ſhall order their Hair to be cut off, "and ſo reduce them to the State of common "Subjects; or whether we ſhall cauſe them to "be put to Death, and afterwards divide the "Kingdom between us: Then they ſent *Ar- "chadius* with a Pair of Sciſſars in one Hand, "and a naked Sword in t'other to the Queen; "who approaching her, ſhowed them both to "her, and ſaid, Your Sons, moſt Glorious "Queen, have ſent me to know your Pleaſure, "what Deſtiny you are pleaſed to allot to "theſe two Youths; whether by ſuffering "their Hair to be cut off, you will have them

"to

" to live; or whether you had rather have " both their Throats cut. Whereupon She " chose rather to see them both kill'd, than to " have their Hair cut off. I further observe, that it was the Fashion when our Kings went to single Combat, to have their long Hair tied up in a large Knot a-top of their Helmets like a Crest; and that was their Cognizance or Mark in all their Fights. Therefore *Aimoinus*, lib. 4. cap. 18. where he speaks of the dreadful Combat between King *Dagobert* and *Bertoaldus*, Duke of the *Saxons*: " The King (says " he) having his Hair, together with a Part " of his Helmet, cut off with a Blow of a " Sword on his Head, sent them by his Esquire " to his Father, desiring him to hasten to his " Assistance.

Now when I consider what might be the Reasons of this Institution, I can find none but this: That since it had been the ancient Custom of the *Gauls* and *Franks* to wear their Hair long (as it was also of the *Sicambri*, and of most others in those Parts) our Ancestors thought fit to continue, and in Process of Time to appropriate this Ornament, and Mark of Distinction to the Regal Family. No Person, tho' but indifferently learn'd, needs any Proof that the *Gauls* wore their Hair long, especially when he calls to mind that of the Poet *Claudian*, ex lib. in Ruffin. 2.

Inde truces flavo comitantur vertice Galli
Quos Rhodanus *velox*, Araris *quos tardior ambit*,
Et quos nascentes explorat gurgite Rhenus.

Now that the *Franks* did so too, whom we have shewn to be descended from the *Chauci* or *Chatti*,

Chaïci, that ſingle Paſſage of the Poet *Lucan* is ſufficient to confirm.

Et vos Crinigeros *bellis arcere* Chaycos
Oppoſiti, pereitis Roman, *&c.*

Which being ſo, we may eaſily comprehend the Reaſon why Strangers, who were ill affected towards our Nation, contumeliouſly called our Kings, who wore ſo great a Head of Hair, *Reges ſetatos*, *briſtled Kings*; and not only ſo, but (tho' Briſtles and long Hair be common to Lyons, Horſes and Swine, all which are therefore called *Setoſi*, or *Setigeri*) they ſtretched the Contumely ſo far, as to ſay, they had Hogs Briſtles. From whence aroſe that filthy Fiction and foul Name, τειχεσχέτων; of which *Georgius Cedrenus* writes thus in his Hiſtory; "Ἐλέγοντο γοῦν ἐκ τῶν ἡγούμενοι ἐκείνου κατηγόμενοι πεισῶνι, "ὑπωνύμως δὲ τειχεσχέται· ὄκχον γὰρ κατὰ τῆς ἐράχεως ἀπὸ "τῶν τέλματος ἐκφυόμενον, ὡς χοῖρον; that is, "They "who were of the Kingly Race were called *Criſte-*"*ti*, which may be interpreted *Briſtlebacked*; "becauſe they had all along their Back-bones, "Briſtles growing out like Swine——. Which Paſſage of *Cedrenus*, I believe, is corrupted, and inſtead of the Word πεισῶνι, ought to be Σετῶνι, or perhaps both. For as ſome Perſons called them pleaſantly *Chriſtati*, by Reaſon of their large erected Bunch of Hair upon the Tops of their Helmets; ſo their Ill-Willers called them upbraidingly *Setati*, or *Setigeri*. If *Cedrenus* had not been ſo very plain in this Paſſage, and the Appellation of *Criſtati* be to be retained, I ſhou'd rather have thought they might have been called τειχαιέτται, as being remarkable for their large Heads of Hair.

CHAP.

CHAP. X.

The Form and Constitution of the Francogallican *Government.*

THESE Things being thus briefly premised, we think it proper now to set forth in what Manner the Kingdom of *Francogallia* was constituted. And we have already made it plain, that the *People* reserv'd to themselves all the Power not only of *Creating*, but also of *Abdicating* their *Kings*. Which Form of Government 'tis manifest our Ancestors had, before they were brought under by the *Romans*. "So that *the People* (as *Cæsar* tells us) *had no* "*less Authority and Power over their Kings, than* "*the Kings had over the People*. Populus non "minus in Regem, quam rex in populum im-"perii ac Potestatis retinet. Altho 'tis probable the *Franks* did not derive this Constitution of their Commonwealth from the *Gauls*; but from their Countrymen, the *Germans*; of whom *Tacitus*, lib. de mor. *Germ.* says, — "Re-"gibus non est infinita aut libera Potestas. "Their *Kings* have not an *Arbitrary* or *Unlimi-*"*ted Power*. Now 'tis manifest, that no Form of Government is more remote from Tyranny, than this: for not one of the three distinguishing Marks, or Characteristicks of *Tyranny*, which the old Philosophers make mention of, can be found in the Form and Constitution of our Government. First, as to a forced Obedience; *i. e.* that a King shou'd rule over a People against their Wills; we have shewn you al-

ready, that the *Supreme Power*, both of *Electing* and *Abdicating* their *Kings*, was in the *People*. Secondly, as to a Life-guard compoſed of Foreigners, (which they reckon the Second Mark of *Tyranny*); ſo far were our *Francogallican* Kings from making uſe of Mercenary Strangers for their Guards, that they had not ſo much as their own Countrymen and Citizens, for that Purpoſe; but placed their whole Truſt and Confidence in the Love and Fidelity of their Subjects; which they thought a ſufficient Guard.

As an Argument of this, we may obſerve what *Gregory of Tours* writes, lib. 7. cap. 18. and *Aimoinus*, lib. 3. cap. 63. —— "King *Gontrannus* being inform'd by an ordinary Fellow "at *Paris*, that *Faraulphus* lay in Wait for him, "preſently began to ſecure his Perſon by "Guards and Weapons; ſo that he went no "whither (not even to the Holy Places) "without being ſurrounded with armed Men "and Soldiers. We have at preſent a very famous Hiſtory extant of St. *Lewis*, written by that excellent Perſon *Joannes Jonvilleus*, who lived very familiarly with that King for many Years; in which whole Hiſtory there is not the leaſt Mention made of Guards or Garriſons, but only of Porters or Door-keepers; which in his native Tongue, he calls Uſhers.

Now as to the third Mark of *Tyranny*, which is when Matters are ſo carried, that what is done tends more to the Profit and Will of the *Perſon governing*, than to that of the *governed*, or the Good of the *Commonwealth*; we ſhall hereafter prove, that the *Supreme* Adminiſtration of the *Francogallican Kingdom was lodged in the Publick Annual Council of the Nation*, which in

in After-Ages was called the Convention of the Three Estates. For the Frame of this Government was the very same which the *Ancient Philosopher's*, and among them *Plato* and *Aristotle* (whom *Polybius* imitates) judged to be the best and most excellent in the World, as being made up and constituted of a Mixture and just Temperament of the three Kinds of Government, *viz.* the *Regal*, *Noble*, and *Popular*. Which Form of a *Commonwealth*, *Cicero* (in his Books *de Republicâ*) prefers to all other whatsoever. For since a *Kingly* and a *Popular* Government do in their Natures differ widely from each other, it was necessary to add a *third* and *middle State* participating of both, *viz.* that of the *Princes* or *Nobility*; who, by Reason of the Splendor and Antiquity of their Families, approach, in some Degree, to the *Kingly Dignity*; and yet, being *Subjects*, are upon that Account on the same Foot and Interest with the *Commons*. Now of the Excellency of this Temperament in a Commonwealth, we have a most remarkable Commendation in *Cicero*, taken by him out of *Plato's* Books *de Republicâ*; which, because of its singular Elegancy, we shall here insert at length.

"Ut in fidibus (inquit) ac tibiis, atque "cantu ipso, ac vocibus, tenendus est quidam "concentus ex distinctis sonis, quem immuta- "tum ac discrepantem aures eruditæ ferre non "possunt; illius concentus ex dissimillimarum "vocum moderatione concors tamen efficitur, "& congruens; Sic ex summis, & mediis, & "infimis interjectis ordinibus, ut sonis, mode- "ratâ ratione *civitas*, consensu dissimillimorum "concinit, & quæ *harmonia* à musicis dicitur in "*cantu*, ea est in *Civitate concordia*: arctissimum

"atq; optimum in Repub. vinculum incolumi-
"tatis, quæ sine justitiâ nullo pacto esse potest.
"i. e. As in Fiddles and Flutes, and even in
"Singing and Voices, a certain Consort of
"distinct Sounds is to be observed; which if
"it be alter'd, or not tunable, skilful Hearers
"cannot bear or endure: And this Consort of
"very different Tones, is, through a just Pro-
"portion of the Notes, rendred Concord, and
"very agreeable. Even so a Commonwealth,
"judiciously proportioned, and composed of
"the *first*, the *middlemost*, and the *lowest* of the
"*States*, (just as in the Sounds) through the
"Consent of People very unlike to each other,
"becomes agreeable: And what Musicians in
"Singing call *Harmony*, that in a Common-
"wealth is *Concord*, the very best and strongest
"Bond of Safety for a Government, which
"can never fail of being accompanied with
"*Justice*. Our Ancestors therefore following
this Method, of a just Mixture of all the three
Kinds, in the constituting their Commonwealth,
most wisely ordained, that every Year on the
Calends of *May*, a Publick *Council* of the whole
Nation should be held: at which *Council* the
great Affairs of the Republick shou'd be trans-
acted by the common Consent and Advice of
all the *Estates*. The Wisdom and Advantage of
which Institution, appears chiefly in these three
things: First, That in the Multitude of pru-
dent Counsellors, the Weight and Excellency of
Counsel shews it self more apparently, as *Solo-*
mon and other Wise Men have said. Secondly,
Because it is an essential part of liberty, that the
same persons, at whose cost and peril any thing is
done, shou'd have it done likewise by their authority
and advice: for (tis a common Saying) *what*

concerns all, ought to be approved by all. Lastly, That such Ministers of State as have great Power with the Prince, and are in high Employments, may be kept within the Bounds of their Duty, thro' the Awe they stand in of this *great Council*, in which all the Demands and Grievances of the Subject are freely laid open. —— "For such "Kingdoms as are ruled by the arbitrary Will "and Pleasure of *one Prince*, may most justly "(as *Aristotle* in his third Book of Politicks "observes) be reckon'd Governments of Sheep, "and brute Beasts, without Wit or Judgment; "not of Freemen, who are endued with Un- "derstanding, and the Light of Reason. The Case is thus—— That even as Sheep are not guided or tended by one of their own Kind, nor Boys govern'd by one of themselves, but by something of more Excellency; even so a Multitude of Men ought not to be ruled and govern'd by one single Person, who perhaps understands and sees less than several others among them, but by many select Persons, who, in the Opinion of all Men, are both very prudent and eminent, and who act by united Counsels, and, as it were, by one Spirit, composed and made up of the Minds of many Wise Men.

Now whereas it may be objected, that most Kings have a constant *Privy-Council* to advise them in the Administration of publick Affairs: We answer, That there is a great deal of Difference between a Counsellor of the *King*, and a Counsellor of the *Kingdom*. This last takes care of the Safety and Profit of the whole Commonwealth; the other serves the Humour and studies the Conveniences of one Man only; and besides, these King's Counsellors reside, for

the most Part, in one certain Place, or at least near the Person of the Prince, where they cannot be supposed to be throughly acquainted with the Condition of the more remote Cities or Provinces; and being debauched by the Luxury of a Court-life, are easily depraved, and acquire a lawless Appetite of Domineering; are wholly intent upon their own ambitious and covetous Designs; so that at last they are no longer to be consider'd as Counsellors for the Good of the Kingdom and Commonwealth, but Flatterers of a single Person, and Slaves to their own and Prince's Lusts.

Concerning this Matter, we have a most excellent Saying of the Emperor *Aurelian*, recorded by *Flavius Vopiscus*. — "My Father used to "tell me (says *Aurelian*) that the Emperor "*Diocletian*, whilst he was yet a private Man, "frequently said, That nothing in the World "was more difficult than to govern well. For, "four or five Persons combine together, and "unanimously agree to deceive the Emperor; "they determine what shall be approved or "disapprov'd. The Emperor, who, for the "most part, is shut up in his Palace, knows "nothing of the Truth of Affairs, he is com- "pell'd to hear and see only with their Ears "and Eyes; he makes Judges, such Persons as "do not deserve to be made so; he removes "from Offices in the Commonwealth such as "he ought to keep in; in short, a good, pro- "vident and excellent Emperor is sold by such "Counsellors." — Now our Ancestors, in the constituting their Commonwealth, wisely avoiding these Mischiefs (as Mariners wou'd do dangerous Rocks) decreed that the *Publick* Affairs shou'd be managed by the joynt Advice and

Counsel

Counsel of *all* the *Estates* of the *Kingdom*. To which Purpose the *King*, the *Nobles*, and the *Representatives* of the *Commons* out of the several Provinces, were obliged to meet at a certain Time every Year. And this very same Institution we find to have been that of many other Nations. First in our Ancient *Gallia*, where the Administration of Publick Affairs was intrusted with the *Common Councel of the chosen Men in the whole Nation* as we have above demonstrated. But because we are now speaking of a Kingdom, I shall give Instances of them. 'Tis manifest, that in old Times the Council of the *Amphictions* was instituted in *Greece* (as *Suidas* and others testify) by King *Amphyction*, Son of *Deucalion*; and therein it was ordained, that at a certain appointed Time every Year, *Representatives* chosen out of the Twelve Commonwealths of *Greece* shou'd meet at *Thermopyle*, and deliberate concerning all the weighty Affairs of the Kingdom and Commonwealth: For which Reason, *Cicero* calls this the *Common Council* of *Graecia*, *Pliny* calls it the *Publick Council*.

We find the like Wisdom in the Constitution of the *German Empire*, wherein the *Emperor* represents the *Monarchical* State, the *Princes* represent the *Aristocratical*, and the *Deputies of the Cities* the *Democratical*; neither can any Matter of Moment appertaining to the whole *German Republick* be firm and ratified, but what is first agreed upon in that *great Convention of the Three Estates*. To this End was framed that ancient and famous Law of the *Lacedemonians*, which joyned the *Ephori* to their *Kings*; "Who, as "*Plato* writes, were designed to be like Bridles "to the Kings, and the Kings were obliged "to govern the Commonwealth by their Ad-

" vice and Authority. *Pliny*, lib. 6. cap. 22. makes mention of the like Practice in the Island of *Taprobana*, where the King had thirty Advisers appointed by the People; by whose Counsel he was to be guided in the Government of the Commonwealth; " For fear (says he) lest " the King if he had an unlimited Power) should " esteem his Subjects no otherwise than as his " *Slaves* or his *Cattel*.

Furthermore, we find the very same Form of Administration of the Kingdom of *England*, in *Polydore Virgil*'s History of *England*, lib. 11. where he has this Passage in the Life of *Henry* the First. —— " Before this Time the Kings " used to summon a publick Convention of the " People in order to consult with them, but " seldom: So that we may in some Manner " say, that the Institution derived its Original " from *Henry*: which took such deep Root, that " it has always continued ever since, and still " does so; *viz.* That whatever related to the " Well-governing or Conservation of the " *Commonwealth*, ought to be debated and determin'd by the *great Council*. And that if " either the *King* or the *People* shou'd act any " thing *alone*, it shou'd be esteemed *invalid*, and " as *nothing*, unless it were first approved and " established by the *Authority of that Council*. " And for fear this *Council* shou'd be cumbred " with the Opinions of an *unskilful Multitude*, " (whose Custom it is to distinguish nothing " justly) it was at first establish'd by a certain " Law, what *Sort* of Persons, and what *Numbers* either of the *Priests* or of the *People* shou'd " be called to this *Council*, which, after a *French* " Name, they commonly call *A Parliament*; " which every King at the Beginning of his " Reign

" Reign uſes to hold, and as often afterward as " he pleaſes, or as *Occaſion* requires. Thus far *Polydore Virgil.*

But among all the Laws and Cuſtoms of this Kind, there is none ſo remarkable as that of the *Spaniards*; who, when they *elect* a King in the *Common-Council* of *Arragon*, (in order to keep up a perpetual Remembrance of their Privileges) repreſent a Kind of Play, and introduce a certain *Perſonage*, whom they call by the Name of *The Law of Arragon**, whom (by a publick Decree) they declare to be greater and more Powerful than their King; and afterwards they harangue the King (who is elected upon certain Terms and Conditions) in Words which (becauſe of the remarkable Virtue and Fortitude of that Nation in repreſſing the *unbridled Will* of their Prince,) we will here ſet down at length. —— " Nos que valemos tanto " come vos, ii podemos mas que vos; vos elegimos Reii con eſtas ii eſtas Conditiones; " intra vos ii nos un que manda mas que vos: " That is, We, who are of as great Value as " you, and can do more than you, do elect " you to be our King, upon ſuch and ſuch " Conditions: Between you and us there is " *one* of *greater Authority* than you.

* *La juſtitia di Arragon.*

Seeing then that the Caſe is ſo, and that *this has always been a conſtant and univerſal Law of all Nations, that are governed by a Kingly, and not by a Tyrannical Power*: 'Tis very plain, that this moſt valuable Liberty of holding a *Common-Council* of the Nation, is not only a Part of the *People's Right*; but that all Kings, who by Evil Arts do oppreſs or take away this *Sacred Right*, ought to be eſteemed *Violaters of the Laws of Nations*; and being no better than *Enemies of Hu-*

Society, must be consider'd not as *Kings*, but as *Tyrants*.

But to return to the Matter in Hand. Our Commonwealth being constituted by the Laws of our Ancestors upon the Bottom above-mention'd, and participating of all the three Kinds of Government; it was ordain'd, that once every Year (and as much oftner as important Occasions should make it necessary) a *Solemn General Council* shou'd be held: Which for that Reason, was called a *Parliament* of the *Three Estates*. By that Word was meant a Convention or Meeting of Men out of several Parts of the Country to one Place, there to confer and deliberate concerning the Publick Welfare: And therefore all Conferences (tho' between Enemies) in order to a Peace or Truce are always in our Chronicles called by the Name of *Parliaments*. Now of this Council, the *King* sitting in his Golden Tribunnal, was *chief*; next to him were the *Princes* and *Magistrates* of the Kingdom; in the third Place were the *Representatives* of the several Towns and Provinces, commonly called the *Deputies*: For as soon as the Day prefix'd for this Assembly was come, the *King* was conducted to the Parliament-House with a Sort of Pomp and Ceremony, more *adapted to popular Moderation*, than to *Regal Magnificence*: which I shall not scruple to give a just account of out of our own Publick Records; it being a Sort of *Piety* to be pleas'd with the Wisdom of our Ancestors; tho' in these most profligate Times, I doubt not but it wou'd appear ridiculous to our flattering Courtiers. The King then was seated in a *Waggon*, and drawn by *Oxen*, which a *Waggoner* drove with his *Goad* to the

the Place of Assembly; But as soon as he was arrived at the Court, or rather indeed the Venerable *Palace of the Republick*, the Nobles conducted the King to the Golden Throne; and the rest took their Places (as we said before) according to their Degrees. This *State*, and in this *Place*, was what was called *Regia Majestas*, *Royal Majesty*. Of which we may even at this Day observe a signal Remain in the King's Broad Seal, commonly called the *Chancery* Seal. Wherein the King is not represented in a *military Posture* a Horse-back, or in a *Triumphant Manner* drawn in his Chariot by Horses, but sitting in his Throne *Robe'd* and *Crown'd*, holding in his Right Hand the Royal Sceptre, in his Left the Sceptre of Justice, and presiding in his *Solemn Council*. And indeed, in that Place only it can be said that *Royal Majesty* does truly and properly reside, where the great Affairs of the Commonwealth are transacted; and not as the unskilful Vulgar use to profane the Word; and whether the King plays or dances, or prattles with his Women, always to stile him YOUR MAJESTY.

Of all these Matters, we shall give only a few Proofs, out of many which we could produce. First, out of *Eginarthus*, who was *Chancellor* to *Charles the Great*, and wrote his Life. These are his Words: "Wherever he "went (speaking of *Charlemagn*) *about the* "*publick Affairs*, he was drawn in a Waggon "by a Pair of Oxen, which an ordinary "Waggoner drove after his rustical Manner. "Thus he went to the Courts of Justice, "thus to the Place of the Publick Conventi- "on of his People, which every Year was "cele-

" celebrated for the Good of the Realm; and " thus he uſed to return Home again.

Joannes Nauclerus gives us an Account of the very ſame Thing, in almoſt the ſame Words, in *Chron. Generat.* 26. So does the *Author* of the *Great Chronicle*, in the Beginning of his Life of *Charlemagn*, Fol. 77. Neither ought this to ſeem ſo great a Wonder to any, who conſiders it was the Faſhion in thoſe Days for our Kings and Queens, and the Royal Family, to be drawn by *Oxen*; of which we have one Inſtance in *Greg. Turon. lib.* 3. *cap.* 26. " *Deuteria*, (ſays he) Wife of King *Childe-*" *bert*, ſeeing her Daughter by a former Huſband " grown to Woman's Eſtate, and fearing leſt " the King (being in Love with her) ſhould " lye with her, cauſed her to be put into a " Sort of Litter with untamed Oxen, and " thrown Headlong off a Bridge. *Aimoinus*, *lib.* 4. *cap.* 30. makes mention of the Golden Throne, where he ſpeaks of King *Dagobert*: " He proclaimed, ſays he, *Generale P L A-*" *CITUM in loco nuncupato Bigarlo*, a *Great* " *Council* in a Place named *Bigargium*: To " which all the Great Men of *France* aſſem-" bling with great Diligence on the Kalends " of *May*, the King thus began his Speech " to them, ſitting on his *Golden Throne*. Alſo in his 41ſt Chapter, ſpeaking of King *Clo-doveus* —— Sitting in the midſt of them, on his *Golden Throne*, he ſpoke in this Manner, *&c.* *Sigebertus in Chron. Annî* 662. —— 'Tis the An-" cient Cuſtom (ſays he) of the Kings of the " *Franks*, every *Kalends of May*, to preſide in " a Convention of all the People, to ſalute " and be ſaluted, to receive Homage, and " give and take Preſents. *Georgius Cedrenus*

expresses this in almost the same Words: Κλοδοβεχος ὁ Μαῤῥου μιλιτα τριγονος ἀπο τουτου ὁ Μεροβεχος ἀπεκτιλε, ὁ Χιλδεριχος ἀπεκτιλε, ὁ Δαγοβερτος τε ὁ ἐπικλιθεις Δαγοβερτος ἀπεκτιλε, ὁ Χιλδεριχος ἀπεκτιλε.

Now, concerning the *Authority* of the *People*, who were thus gather'd together at the *Great Council*, we have many Testimonies. *Aimoinus*, *lib.* 4. *cap.* 41. speaking of *Clodoveus* the Second, "Altho' (says that King in "his Speech) the Care of our Earthly Principality *obliges* us to call you together *Principes gentis*, and to consult you in Affairs relating to the Publick, *&c.* —— Also in his 74th Chapter of the same Book——— "In the "Beginning of the Year he went into *Saxony*, "and there he held a *General Convention every* "*Year*, as he used to do every Year in *France* "also.——— Again, *lib.* 4. *cap.* 13. where he speaks of *Charles* the Great——— "When the "Hunting near *Aix la Chapelle* was ended, as "soon as he return'd, he held a *General Con-* "*vention* of his People, according to usual "Custom, *&c. Cap.* 116. The Emperor having "held Two *Conventions*, one at *Nimeguen*, the "other at *Compiegne*, wherein he receiv'd the "Annual Presents, *&c.* Again, *Cap.* 117. "In the Month of *August* he came to *Worms*, "and holding there the General Convention "according to constant Practice, he received "the Yearly Gifts which were offer'd him, "and gave Audience to several Ambassadors, "*&c.* Again, *Lib.* 5. *cap.* 31. The General "*Placitum* was held on the Ides of *June*, in the "Town *Duziacum*.

And this may suffice touching this solemn *General Council*, which both *French* and *German* Historians, thro' a depray'd Custom of the

Latin

Latin Tongue, called by different Names; ſometimes *Curia*, ſometimes *Conventus Generalis*, but for the moſt Part *Placitum*. *Gregorius*, *lib.* 7. *cap.* 14. ſays thus: —— Therefore when the "Time of the *Placitum* approached, they were "directed by King *Childebert*, *&c.* *Aimoinus*, "*lib.* 4. *cap.* 109. In the middle of the Month "he held the General Convention at *Thun-* "*ville*, where there was a very great Appear- "rance of the People of the *Franks*; and in "this *Placitum*, the ſingular Compaſſion of "the moſt pious Emperor eminently ſhow'd it "ſelf, *&c.* ——

Now it was the Cuſtom in that *Council* to ſend Preſents from all Parts to the King, as may appear from many Places which might be quoted, wherein that *Council* is called *Conventus Generalis*. *Aimoinus*, *lib.* 4. *cap.* 64. ſpeaking of King *Pipin* —— "He compell'd them "(ſays he) to promiſe they would obey all "his Commands, and to ſend him every Year "at the Time of the *General Convention*, Three "Hundred Horſes, as a Gift and Token of "Reſpect. *Item*, *cap.* 85. Not forgetting the "Perfidy of the *Saxons*, he held the *General* "*Convention* beyond the *Rhine*, in the Town "of *Kuffſtein*, according to the uſual Cu- "ſtom.

This *Council* was ſometimes called by another Name, *Curia*, the *Court*, from whence proceeded the common Saying, when People went to the *King's Hall* or *Palace*, *we are going to Court*; becauſe they ſeldom approach'd the King, but upon great Occaſions, and when a *Council* was call'd. *Aimoinus*, *lib.* 5. *cap.* 50. "*Charles*, (ſays he) the Son of the *Danish* "*King*, ſued (or proſecuted) ſeveral Noble "men

" Men of *Flanders* very conveniently at this *Co-*
" *ria*, or *Court*. *Item, cap. sequenti*; *Henry* King
" of the *Romans* being dead, at that Great and
" General *Court*, *Curia*, held at *Mentz*. &c.
" Also *Otto. Frising. Lib. Friderici* 1. *cap.* 40.
" After these Things, the Prince enter'd *Bavaria*,
" and there celebrated a General *Curia*, *Court*, in
" the Month of *February*. *Item, cap.* 43. *Con-*
" *rade* King of the *Romans*, calling the Princes
" together at *Francfort*, a City of *East France*,
" celebrated there a *General Court*.

CHAP. XI.

Of the Sacred Authority of the Publick Council, and what Affairs were wont to be transacted therein.

WE think it necessary in this Place to consider what Kind of Affairs were wont to be transacted in this general *Annual Council*, and to admire the great *Wisdom* of our Ancestors in *constituting our Republick*. We have (in short) observed that they are these that follow. First, the *Creating or abdicating of their Kings*. Next, the *declaring of Peace or War*. The *making of all Publick Laws*: The *Conferring* of all *great Honours*, *Commands*, or *Offices* belonging to the *Commonwealth*: The *assigning* of any *part* of the *deceased King's Patrimony* to his Children, or giving

giving *Portions* to his *Daughters*, which they uſually called by a *German* Name *Abannagium*, that is, *pars excluſoria*, a Part ſet out for young-er Children. Laſtly, all ſuch Matters as in Popular Speech are commonly call'd *Affairs of State*? Becauſe it was not lawful to determine or debate of any Thing relating to the *Commonwealth*, but in the *General Council* of the *States*.

We have already produced ſufficient Proofs of the *Electing* and *Abdicating* their *Kings*, as well from the laſt *Will* and *Teſtament* of *Charles* the *Great*, as from ſeveral other Authors: To which we will add this one Paſſage more out of *Aimoinus*, lib. 5. cap. 17. where ſpeaking of *Charles* the *Bald*, he ſays thus, —— "Having "ſummon'd a *General Council* at * *Cariſiacum*, "he there firſt gave his Son *Charles arma virilia*; "that is, he girt him with a Sword, or knighted "him, and putting a Regal Crown upon his "Head, aſſign'd *Neuſtria* to him, as he did *A-"quitain* to *Pipin*.

*Crecy.

Now concerning the *Adminiſtration* of the *Kingdom*, *Aimoinus* gives us this remarkable Inſtance, *Lib.* 5. *Cap.* 35. ſpeaking of *Charles* the *Bald*. "*Charles* (ſays he) being about taking "a Journey to *Rome*, held a general *Parliament* "on the Kalends of *June* at *Compeign*, and "therein was ordained under particular Heads, "after what Manner his Son *Lewis* ſhould go-"vern the Kingdom of *France*, in Conjunction "with his *Nobles*, and the reſt of the *Faithful* "*People* of the *Realm*, till ſuch time as he re-"turned from *Rome*.

Alſo in the ſame Book, *Cap.* 42. ſpeaking of *Charles* the *Simple*: "Whoſe Youth (ſays he) "the principal Men of *France* judging (as it "was indeed) very unfit for the Exerciſe of

"the

" the Government of the Realm, they held a " *General Council* touching theſe weighty Af- " fairs; and the great Men of the *Franks*, *Bur-* " *gundians*, and *Aquitanians* being aſſembled, " elected *Odo* to be *Charles*'s *Tutor* and *Governor* " of the *Kingdom*.

Now concerning *the Power* of *making Laws* and *Ordinances*, that ſingle Paſſage in *Gaguirus*'s Life of St. *Lewis* is a ſufficient Proof. " As " ſoon (ſays he) as King *Lewis* arrived at *Pa-* " *ris*, he called a *General Convention*, and *there-* " *in* reformed the Commonwealth; making ex- " cellent Statutes relating to the Judges, and a- " gainſt the Venality of Offices, *&c.*

Concerning the *conferring* the *great Honours and Employments* upon *Perſons of approved Worth*, *Ai-* *monius lib. 5. cap. 36.* gives us this Inſtance; ſpeak- ing of *Charles* the *Bald*, he tells us, " That where- " as he began (before his Inauguration) to di- " ſtribute the Governments and great Offices " of the Realm according to his own liking; " the *Great Men ſummon'd a General Council*, " and ſent Ambaſſadors to the King; neither " wou'd they admit him to be crown'd till he " had made uſe of their Advice and Authority " in diſpoſing of thoſe great Employments. " The Nobles (ſays he) being very much diſ- " pleas'd, becauſe the King *confer'd Honours* " *without their Conſent*; for that Reaſon, " agreed together againſt him, and ſummon'd " a *general Convention* in the Town of *Witmar*, " from whence they ſent Ambaſſadors to " *Lewis*, as *Lewis* likewiſe ſent his Ambaſſadors " to them, *&c.*

Alſo the *Appendix* to *Gregory* of *Tours*, *lib.* 11. *cap.* 14. " That ſame Year (ſays he) King *Clo-* " *tharius*, *cum Proceribus & Leudibus*, i. e. with

" the Nobility and Free Subjects of *Burgundy*, " met at *Troyes*, and when he earneſtly ſolici- " ted them to advance another Perſon to the " ſame Place and Degree of Honour which " *Warnhar* (lately deceaſed) had enjoy'd, they " unanimouſly refuſed to do it; and ſaid, they " would by no Means have any *Mayor of the* " *Palace*, earneſtly deſiring the King to excuſe " them:" And thus they gained their Point with the King.

To this Head may be referr'd all *the Contemi- ons* of ſuch *Princes*, as were foreſeen might be *dangerous to the Commonwealth*. Theſe were de- bated in the *General Council*. For *Aimoinus*, lib. 4 cap. 1. where he ſpeaks of *Clotharius*, Son of *Chilperic*, from whom Queen *Brunechild* de- manded the Kingdom of *Auſtraſia*, ſays thus: —— " *Clotharius* made anſwer, that ſhe ought " to call a *Convention* of the *Nobles* of the *Franks*, " and there debate (by common Conſent) an " Affair relating to the Community. That as " for him, he would ſubmit to their Judgment " in all Things, and would not obſtruct in any " Meaſure whatever they ſhould command. The ſame Thing is recorded in the *Appendix* to *Gregory* of *Tours*, lib. 11. " *Clotharius* (ſays he) " made Anſwer to her, that he would refer the " Difference between them, to the Determi- " nation of the *Select Franks*, and promis'd to " fulfil whatſoever they ſhould ordain". Alſo *Aimoinus* lib. 5. cap. 12. where he ſpeaks of King *Lewis* the *Pious*, who was grievouſly tor- mented with the Contentions of his Sons, ſays thus,—— " When Autumn approached, they " whoſe Sentiments differ'd from the Empe- " ror's, were for having the *General Convention* " held in ſome Town of *France*.—— *Item* cap. 13.

" 13. He appointed the *General Convention* of " his People to be held at *Thionville*. And after " a little Time, ſummon'd his People to meet on " the Feaſt of St. *Martin*, and uſed all his En- " deavours to recal his Son *Pipin* who had ab- " ſented himſelf; but he refuſed to come, *&c.* *Gaguinus* making Mention of this ſame Paſſage, ſays; " When the Conſpirators found out " they ſhould not be able to dethrone the King, " without the Conſent of the *Nobility in Con-* " *vention*, they labour'd by all Means to have " the *Great Council* held within the Limits " of *France*. But *Lewis* knowing for certain " that thoſe *Franks* were gained by his Enemies " againſt him, refuſed it, and ſummon'd the " Convention to meet at *Mentz*, and ordered " that none ſhould be admitted *Armed* to the " Council. But his Sons, (who had conſpired " againſt their Father) leſt they ſhould want " the *Authority* of a *Publick Convention*, aſſembled " a Council at *Compiegne*, conſiſting of the Bi- " ſhops and Nobility of the Kingdom. And *Lo-* " *tharius* taking his Father out of Cuſtody, " brought him to *Compiegne*.

Again, *Aimoinus*, lib. 5. cap. 38. where he ſpeaks of *Lewis the Stammerer*, who held a *Council* at *Marſua*, wherein he treated a Peace with his Couſin, ſays: " In that *Placitum*, or *Parliament*, " theſe Articles which follow were agreed upon " between them, *by and with the Conſent of the* " *faithful Subjects of the Realm.*

To proceed. We find further, that it was the Cuſtom (when any *Prince*, or *Perſon* of *Extraordinary Quality*, was *accuſed of any Crime*) to ſummon him to appear before the *Great Council*, and there he was to ſtand his *Trial*. Thus in the Reign of King *Clotharius*, when

Queen Brunechild stood accused, and was found guilty of many capital Crimes, the King made a Speech to the Estates of the *Great Council* of *Francogallia*, in these Words; which are recorded by *Aimoinus*, lib. 4. cap 1. "It belongs "to you, my most dear Fellow-Soldiers, and "high Nobility of *France*, to appoint what "Kind of Punishment ought to be inflicted on "a Person guilty of such enormous Crimes, &c. And *Ado Ætat. 6. Sub Anno* 583. tells us, "The "*Franks* passing Sentence upon her in the King's "Presence, condemn'd her to be torn in Pieces "by wild Horses.

Now concerning the *dividing* of the *Royal Patrimony*, and the *Appanages*, we have the same Person's Testimony, *lib.* 5. *cap.* 94. where speaking of *Charlemagn*, he has these Words—— "These Matters being ended, the King held a "*Convention* of the *Nobility and Gentry* of the "*Franks*, for the making and maintaining a "firm Peace among his Sons, and dividing the "Kingdom into Three Parts, that every one of "them might know what Part of it he ought "to defend and govern, in Case they survived "him.—— Also in that Place where he speaks of the Partition made among the Children of *Lewis*, lib. 5, cap. 40. he says thus.—— "They "went to *Amiens*, and there they divided their "Father's Kingdom among them, *according to* "*the Advice and Direction of their faithful Sub-* "*jects*. Further, *cap.* 41. where he writes of *Carloman*, who held his *Great Council* then at *Worms*.—— "To this *Placitum* (says he) came "*Hugo*, and preferred his Petition for that Part "of the Kingdom, which his Brother *Lewis* "(*in Locarium acceperat*) had rented of him, "or received in Pawn.

We

We may further obſerve, from very many Inſtances, that whenever the King had any expenſive Deſign in Hand, ſuch as the Building of Churches or Monaſteries, he took firſt the Advice of the *Council* of the *Eſtates*. For *Aimoinus*, lib. 4. cap. 41. where he ſpeaks of *Clodoveus* the Second, tells us, that ſitting on his Throne, he began his Oration to the *General Council* in theſe Words, *Quamquam Franci gigina vires*, &c. Altho' (ſays he) the Care I " ought to take of my Kingdom, obliges me " to take your Advice in all Matters relating to " the Publick, *&c.*

And thus much may ſuffice on this Point. From all which we think it appears plainly, that the whole Power of the Adminiſtration of the Kingdom was lodg'd in the *Publick Council*, which they called *Placitum*, becauſe according to the Idiom of the *Latin* Tongue, *that* is properly termed *Placitum*, which after having been propoſed and debated in a Council of many Perſons, is at laſt agreed to, and reſolved upon by them. And therefore *Cicero*, with others of the Ancients, were wont to call ſuch like Determinations, *Placita Philoſophorum*.

Since therefore the Matter is ſo, I hope the Opinion which we have formerly given in ſome of our other Books, will not be eſteemed abſurd; *viz.* That the common Form uſed by the King's Secretary in the laſt Clauſe of our Ordinances and Edicts, *Quæ vale ſit PLACITUM noſtrum*, ariſes from hence. For anciently thoſe Laws were written in the *Latin* Tongue, (as is ſufficiently proved by *Aimoinus*, the *Capitulary of Charles the Great*, and many other Records); but afterwards when the King's Secretaries or Clerks began to make uſe of the

Vulgar Tongue, thro' Ignorance, or rather Malice, they tranſlated it thus, ——*Car tel eſt noſtre Plaiſir*: *For ſuch is our Will and Pleaſure.*

Now as to the *Power* of the *People*, we have this farther Argument extant in the ſame Capitulary of *Charles the Great*. —— "Let the *People* "(ſays it) be conſulted touching all the Heads "of the new Laws, which are to be added to the "former; and after they have *all given their Con-* "*ſents*, let them ſet their Hands and Seals to "every Article."

From which Words, 'tis apparent that the People of *France* were wont to be bound by ſuch Laws *only*, as they had publickly agreed to in their *Parliaments*. Alſo *in fine* Leg. *Alaman.* we find this Paſſage. —— "This is decreed by "the *King* and his *Nobles*, and all the Chriſti- "an *People* which compoſe the Kingdom of the "*Merovingians*. Alſo *Aimoinus*, lib. 5 cap. 38. "—— In this *Placitum* the Laws which follow "were agreed upon, to be obſerved between "them, by the *Conſent* of the faithful Subjects. "—An Agreement made between the Glorious "Kings, *&c.* by the *Advice* and *Conſent* of their "faithful Commons, *&c.*

Laſtly, we cannot omit obſerving, that ſo great was the *Reputation* and *Authority* of this *General Council*, even among *Strangers*, that *ſo- reign Princes* ſubmitted to have their Controver- ſies and Differences decided by it. The *Appen- dix* to *Greg. Turon.* lib. 11. cap. 37. *Anno* 12 of *Theodorick*'s Reign, has this Paſſage in it.— "When *Alſaciones*, [perhaps *Alſatia*] in which "Country he had been brought up, and which "was left him by his Father *Childebert*, fell re- "vertheleſs to *Theodebert*, according to the Cu- "ſtom in Uſe among the *Barbarians*; the two "Kings

" Kings agreed that their Difference ſhould be de-
" cided by the Judgment of the *Franks*, (*in Salo-*
" *ciſſa caſtro*) in their Camp near the River *Sala*.

CHAP. XII.

Of the Kingly Officers, commonly call'd Mayors of the Palace.

BEfore we treat farther of the *uninterrupted Authority* of the *Publick Council*, we think it not improper to ſay ſomewhat of thoſe Regal great Officers, which, during the *Merovingian* Race were called (*Majores domus*) Maſters, or *Mayors of the Palace*. Theſe having for ſome Time encroach'd upon the Kingly Power, finding at laſt a fit Opportunity, ſeiz'd upon it entirely as their own. Their Dignity near the Perſons of our Kings ſeems to have been much the ſame with that of *Præfecti Pretorio*, or Generals of the Guards in the Time of the *Roman* Emperors, who were ſometimes alſo ſtiled *Aulæ Præfecti*. They were uſually appointed in and by the ſame *Convention* which choſe the *Kings*, and were wont to be Chiefs or Heads of the *Publick Council*. And upon this Account we frequently meet with ſuch-like Expreſſions as theſe among our Hiſtorians. —— " They elected ſuch
" and ſuch a Man to the Dignity of *Mayor of*
" *the Palace*. *Herchinold*, *Mayor of the Palace*,
" being dead, the *Franks* conferr'd that Dignity
" upon *Ebroinus*, and appointed him to be *May-*

"*or* in the King's *Court*. Also in 5. They chose "*Hilderick* for their *King*, and *Wolfold* for *Mayor* "*of the Palace*." Which Quotations of ours might indeed have been made as properly in our foregoing Chapter, where we proved that the greater Employments were not usually given by the *Kings*, but appointed by the Yearly *General* Council, and conferred upon Men of the greatest Fidelity and Probity.

But in this Magistracy, the same Thing happened, which *Plutarch* tells us (in his Life of *Lysander*) came to pass when *Agesilaus* was appointed by the *Lacedemonians* to be *General* of their Army, and *Lysander* to be Legate or Lieutenant-General: "Even as in Stage-Plays "(says he) the Actors who represent a Ser"vant or Messenger, have better Parts, and "are more regarded than him that wears the "Crown and Scepter, who scarce speaks a "Word in the whole Play: So the chief Au"thority and Command was lodg'd in *Lysan*"*der*, whilst with the *King* remained only a "naked and empty Title.—— Just so it fell out in our *Francogallia*; Fair Opportunities of increasing the Power of these *Mayors* of the Palace, being offer'd by the Sloth and Negligence of our *Kings*; among whom we may reckon *Dagobert*, *Clodoveus*, *Clotharius*, *Chilperi*cus, *Theodoricus*, &c. For the Author of the History of the *Franks*, often cited by *Vincentius Vercellensis*, tho' without naming him, writes, That during the Reign of *Clotharius*, Father of *Dagobert*, the Kingdom of the *Franks* began to be administred and govern'd by some which were called *Provisores Regiæ*, or *Majores Domus*. The same says *Godf. Viterb. parte Chron.* 16. Whereupon, whilst those *Mayors* of the Palace

executed

executed all the important Affairs of the Commonwealth, and commanded all the Armies in Time of War; and the Kings (ſpending their Days in Sloth and Idleneſs) tarried at Home, content with the bare Title of a King; Matters at laſt were brought to ſuch a Paſs, that during the Reign of *Childerick* the 18th *King*, Pipin, *Mayor of the Palace*, (who in the King's Name had waged great and long Wars, and had overcome and reduced the *Saxons* to Terms of Submiſſion) finding a fit Occaſion to aſſume the Regal Title which was offer'd him, did not let it ſlip: Eſpecially ſeeing himſelf at the Head of a great and victorious Army, that eſpouſed his Intereſts. Of which we have the Teſtimony of many Authors. Firſt, *Otto Friſingius*, Chron. 5. cap. 12. and his Tranſcriber *Godf. Viterb.* Part. 16. who write thus.—"The "Kings of *France*, before the Time of *Pipin* "*the Great*, (formerly *Mayor of the Palace*.) "were in a Manner but titular Princes, ha"ving very little to do with the Government "of the Realm. *Sigebertus* ſays almoſt the "ſame Thing *ſub Anno* 662. —From this Time, "(ſays he) the Kings of the *Franks* degene"rating from their ancient Wiſdom and Forti"tude, enjoy'd little more than the bare Name "of King. They did indeed bear the Title "according to Cuſtom, *as being of the ancient* "*Regal Race*; but neither acted nor diſpoſed of "any Thing: The whole Adminiſtration and "Power of the Kingdom, was lodg'd in the "Hands of the *Mayor of the Palace*.

Yet in Reading ſuch-like Authorities, we ought to take this Obſervation along with us. That ſince *Pipin* and his Sons laboured (as 'tis probable they did) under a great Load of En-

vv, for having violently wreſted the Royal Dignity from King *Childerick*, they made it their Buſineſs to find out and employ *plauſible ingenious Hiſtorians*, who magnified the Cowardlineſs of *Childerick* and his Predeceſſors, upbraiding them with Sloth and Idleneſs, beyond what they deſerv'd. And among ſuch as theſe, we may reckon *Eginarthus*, Chancellor to *Charles* the *Great*, and one that did him ſpecial Service of this Nature; who in the Beginning of his Book writes thus.—— "The Family of "the *Merovingians*, out of which the *Franks* "uſed to *Pleſt* their Kings, is ſuppoſed to have "laſted as long as to *Hilderic*; who by the Ap"pointment of Pope *Stephen*, was depoſed, ſha"ven, and thruſt into a Monaſtery. Now "tho' it may be ſaid to have ended in him, yet "in Truth, for a long Time before, it ceaſed to "have any Value or Excellency, bating the "bare empty Title of King. For both the "Riches and Power of the Kingdom, were at "the Diſpoſition of the *Prefects of the Palace*, "commonly called *Majores Domus*; with whom "was alſo lodg'd the Authority of the Empire: "Neither was there any Thing left remaining "to the King, but only that contenting him"ſelf with the Title, he ſhould ſit on a Throne, "wearing his Hair and Beard very long, and "repreſenting the Perſon of a Ruler; ſome"times giving the firſt and laſt Audience to "Ambaſſadors from Foreign Parts, and return"ing ſuch Anſwers as were made for him, as "if they proceeded immediately from himſelf. "But beſides the unprofitable Name of a King, "and a precarious Allowance for his private "Expences, (which the Mayor of the Palace "was pleaſed out of Bounty to give him) he

" had nothing that he could call his own, ex-
" cept one Village of very ſmall Revenue,
" where he had a little Houſe, and a few Ser-
" vants, barely ſufficient for his neceſſary Oc-
" caſions, *&c.*

Sigebertus, *ſub Anno* 662. taking *Eguinarthus* for his Pattern, inveighs againſt the former Kings in almoſt the ſame contumelious Terms. " Whoſe Cuſtom (ſays he) it was, indeed, to
" make an Appearance like a Prince, accord-
" ing to what had been uſual to their Family;
" but neither to act, nor diſpoſe of any thing,
" only to tarry at Home, and to Eat and Drink
" like Irrational Creatures. ——— As if the like Sloth and Cowardiſe ought to be imputed to all the former Kings, among whom we nevertheleſs find many brave Men, ſuch as *Clodoveus*, who not only defeated a great Army of *Germans*, which had made an Irruption into *France*, in a great Battel near *Tolbiacum*; but alſo drove the Remainder of the *Romans* out of the Confines of *Gallia*. What ſhall we ſay of *Childebert* and *Clotharius*, who rooted the *Viſigoths* and *Oſtrogoths* out of *Provence* and *Aquitain*, where they had ſeated themſelves? In the Hiſtories of all which Princes, there is no Mention made of any *Mayor of the Palace*, but curſorily, and by the By, as one of the *King's Servants*. This we may ſee in *Gregorius*, lib. 5. cap. 18. where he ſpeaks of *Gucilius*, *Lib.* 6. *cap.* 9. and *cap.* 45. *Lib.* 7. *cap.* 49. And we find this Employment to have been not only in the *King's* Palace, but alſo in the *Queen's*: For the ſame *Gregorius*, lib. 7. cap. 27. mentions one *Waddo* as *Mayor* of the *Palace*, in the Court of *Queen Rigunthe*: And in very many other Places of their Hiſtories, we find both *Gregorius* and *Aimoinus* making

making Mention of these *Masters of the Court* and *the King's House*.

Now the first Beginning of the great Authority of these *Præfecti Regii*, was (as we told you before) during the Reign of King *Clotharius* the Second, about the Year of our Lord 588. that is, about 130 Years after the constituting the *Francogallican Kingdom*; which we may also learn from the before-mention'd Historian, so often quoted by *Venericus*.

Yet there are two other Historians, (tho' not of equal Credit) *Sigibertus* and *Tritbemius*, who refer the Beginning of so great a Power in the *Mayor of the Palace*, to the Reign of *Clotair* the Third, whose *Magister Palatii* was one *Ebronus*, a Man of extraordinary Wickedness and Cruelty: But however this may be, we find Historians calling them by several other Appellations; such as *Comites Domus Regiæ*, *Præfecti Aulæ*, *Comites Palatii*, &c.

CHAP. XIII.

Whether Pipin *was created King by the* Pope, *or by the Authority of the* Francogallican Council.

HAving in the former Chapter given an Account, that after the Expulsion of *Childerick*, (a stupid Prince, in whom the Line of the *Merovingians* ended) *Pipin*, from being *Mayor of the Palace*, was created *King*, It will be worth our Enquiry, to know by whose Authority

thority the Kingdom was confer'd upon him. For *Pope Gelasius* says thus, *Cap.* 15. *Quest.* 6. "——A *Roman Pope*, viz. *Zacharies*, deposed "the King of the *Franks*, not so much because "of his evil Actions, as because he was stupid, "and unfit for the Exercise of so great a Trust; "and in his Stead, substituted *Pipin*, Father of "*Charles* the Emperor: Absolving all the "*Franks* from the Oath of Allegiance to "*Childeric*."

And there is scarce an Author who does not acquiesce in this Testimony of one *Pope*, concerning the Power of another: Thus *Ado*, *Lambertus*, *Rhegino*, *Sigibertus*, *Aimoinus*, *Landulphus*, nay, even *Vincentius Vercellensis*, (in the Book which we formerly quoted) cites these Words out of the Epistle of *Pope Gregory* the VIIth. to *Herman* Bishop of *Metz*, viz. "A "certain *Pope of Rome deposed* the *King* of the "*Franks* from his Kingdom, not so much for "his Wickedness, as his being unfit for so great "a Power; and after having absolved all the "*Franks* from the Oath of Fidelity they had "sworn to him, placed *Pipin* in his Room.—— "Which *Otto Frisingius*, lib. Chron. 5. cap. 23. "and *Godfrey*, Chron. Part. 17. laying pre-"sently hold of, break out into this Exclama-"tion——From this Action, the Popes of "*Rome* derive an Authority of changing and de-"posing Princes, &c.

But pray let us enquire whether the Truth of this Story, as to the Matter of Fact, be sufficiently proved and attested. For in the first Place, 'tis manifest, That *not one* of all that *great Number of Kings* of the *Franks*, which we have instanced to have been Elected or Abdicated, was either created or abdicated by the Pope's

Pope's Authority. On the contrary we have irrefragably prov'd, that the whole Right, both of *making* and *depoſing* their Kings, was lodg'd in the yearly *great Council* of the Nation; ſo that it ſeems incredible the *Franks* ſhou'd neglect or forgo their Right, in this ſingle Inſtance of *Pipin*. But to make few Words of this Matter, *Venericus Vercellenſis* gives us the Teſtimony of an ancient Hiſtorian, who has written of all the *Francogallican* Affairs; whereby that whole Story of the *Pope*, is prov'd to be a Lye: And 'tis clearly demonſtrated, that both *Childerick* was depoſed, and *Pipin* choſen in his room, according to the *uſual* Cuſtom of the *Franks*, and the *Inſtitutions* of our Anceſtors: That is to ſay, by a *ſolemn General Council of the Nation*; in whoſe Power *only* it was, to tranſact a Matter of ſo great Weight and Moment, as we have before made it appear. The Words of that Hiſtorian are theſe.—— "That by the "*Counſel*, and with the *Conſent* of all the "*Franks*, (a Relation of this Affair being ſent "to the Apoſtolick See, and its Advice had) "the moſt noble *Pipin* was advanced to the "Throne of the Kingdom, *By the Election of "the whole Nation*, the Homage of the Nobility, with the Conſecration of the Biſhops, *&c.* From which Words, 'tis moſt apparent that *Pipin* was not appointed King by the *Pope*, but by the *People themſelves*, and the *States of the Realm*. And *Venericus* explains this Matter out of the ſame Hiſtorian. "*Pipin*, *Mayor* of the "Palace (ſays he) having all along had the "Adminiſtration of the Regal Power in his "Hands, was the firſt that was appointed and "elected to be King, from being *Mayor of the "Palace*; the *Opinion* of *Pope Zachary* being

"firſt

" first known, because the Consent and *Coun-*
" *tenance* of a Pope of *Rome*, was thought ne-
" cessary in an Affair of this Nature. —— And
" presently after he tells us; " The Pope find-
" ing that what the Ambassadors had deposed
" was just and profitable, agreed to it; and
" *Pipin* was made King by the unanimous Suf-
" frages and Votes of the Nobility, *&c.*——To
the very same Purpose writes *Ado of Vienna*,
Ætat. 6. *sub Anno* 727.—— " Ambassadors (says
" he) were sent to Pope *Zacharias*, to propose
" this Question to him, Whether or no the
" Kings of the *Franks*, who had scarce any
" *Power* in their Hands, but contented them-
" selves with the bare *Title*, were fit to conti-
" nue to be *Kings*? To which *Zacharias* re-
" turn'd this Answer,—— That he thought the
" *Person who governed* the Commonwealth,
" ought rather to have also the *Title* of King:
" Whereupon the *Franks*, after the Return of
" the Ambassadors, cast out *Childeric*, who then
" had the Title of King, and by the *Advice* of
" the *Ambassadors*, and of Pope *Zacharias*, E-
" *lected Pipin*, and made him King.

Besides the above Proofs, we have *Aimoinus*'s Testimony to the same Purpose, *lib.* 4. *cap.* 61. where he concludes thus.—— " This Year *Pipin*
" got the Appellation of King of the *Franks*,
" and according to their ancient Customs was
" elevated to the Royal Throne in the City of
" *Soissons*, &c." Nay, even *Godfrey* of *Viterbo* himself, *Chron. part.* 17. *cap.* 4. " *Pipin* (says
" he) was made King by Pope *Zacharias*, (*ex*
" *electione Francorum*) through the *Election* of
" the *Franks*, *Hilderic* their slothful King be-
" ing, *by the Franks*, thrust into a Monastery.

In-

In like Manner *Sigebertus*, sub Anno 752.— The Authors of the *Miscellany History*, lib. 22. —— *Otto Frising*. lib. 5. cap. 21, 22, 23. And the Author of the Book intituled *Fasciculus temporum*, do all clearly agree in the Account given of this Tranſaction. From which we may eaſily gather, that altho' the *Franks* did *conſult* the *Pope* before they created *Pipin* King, yet it cannot therefore be any Ways inferr'd from thence, that he was made King by the *Pope*'s *Authority*; for 'tis one Thing to make a King, and another to give Advice touching the making him. 'Tis one Thing to have a Right of Creation, and another that of only giving Advice; nay, no Man has a Right of ſo much as giving Advice in Matters of this Nature, but he whoſe Advice is firſt aſk'd.

Laſtly, no Man has more clearly explain'd this whole Matter than *Marſilius Patavinus*; who during the Reign of *Lewis* of *Bavaria*, writ a Book —— *de tranſlatione Imperii*, in which, *Cap.* 6. he has theſe Words. —— "*Pipin*, a very valiant Man, and Son of *Charles Martel*, was (as we read) raiſed to the Dignity of being King of the *Franks*, by *Pope Zacharias*. But *Aimoinus* more truly informs us, in his Hiſtory of the *Franks*, that *Pipin* was *legally elected* King by the *Franks* themſelves, and by the Nobility of the Kingdom was placed in the Throne. At the ſame Time *Childeric*, a diſſolute Prince, who contenting himſelf with the bare Title of a King, waſted both his Time and Body in Wantonneſs, was by them ſhaven for a Monk. So that *Zacharias* had no Hand in the depoſing him, but conſented (as ſome ſay) to thoſe that did. For ſuch depoſing of a King for juſt Cauſes,

"and

" and electing of another, does not belong to " any Bishop or Ecclesiastick, nor to any Col- " lege of Clergymen; but to the *whole Body* " *of Citizens* [ad universitatem civium] in- " habiting that Region, and to the Nobles of " it, or to the Majority of them both. There- fore those Pretences of the *Popes*, to a Power of *creating* or *abdicating* Kings, are apparently false to every Body. But besides this fabulous Device, which is a sufficient Instance of their Wickedness and Malice, I think it worth my while to add a remarkable Letter of Pope *Ste- phen*, adapted to the foregoing Fable; by which we may make a Judgment of the Madness and Folly of that old crafty Knave. This Letter is extant in *Rhegino*, a Benedictine Monk, and Abbot of *Prumy*, * an irrefragable Testimony in an Affair of this Nature; 'tis in *Chron. anni* 753.

* *Abbot Pruniacen- sis.*

——" *Stephen* the Bishop, Servant of the Ser- " vants of God, &c. As no Man ought to " boast of his Merits, so neither ought the " wonderful Works of God which are wrought " upon his Saints without their Desert, to be " buried in Silence, but published abroad as the " Angel admonished *Tobias*. I being con- " strained thro' the Oppression of the holy " Church, by that most wicked, blasphemous, " and not worthy to be named Wretch, *Aistol- " phus*, to fly for Refuge to that *excellent and " faithful Votary of St.* Peter, *Lord* Pipin, the " most *Christian* King, took my Journey into " *France*; where I fell into a mortal Distem- " per and remained some Time in the District " of *Paris*, in the venerable Monastery of St. " *Denis* the Martyr. And being now past " Hopes of Recovery, methought I was one " Day at Prayers in the Church of the same

" blessed

" bleſſed Martyr, in a Place under the Bells:
" And that I ſaw ſtanding before the great Al-
" tar our Maſter *Peter*; and that great Ma-
" ſter of the *Gentiles*, our Maſter *Paul*; whom
" I knew very well by their Veſtments. And
" a little after, I ſaw the bleſſed *Lord Denis*, a
" tall and ſlender Man, ſtanding at the Right
" Hand of our Lord *Peter*. And then that good
" Paſtor the Lord *Peter* ſaid—— This good
" Brother of ours asks for Health. Then re-
" ply'd the bleſſed *Paul*—— He ſhall be healed
" preſently. And thereupon approaching to
" our Lord *Denis*, he amicably put his Hand
" upon his Breaſt, and look'd back upon our
" Lord *Peter*, and Lord *Peter* with a chearful
" Countenance ſaid to our Lord *Denis*, His
" Health ſhall be your particular Act of Fa-
" vour. Then preſently Lord *Denis* taking a
" Cenſer full of Incenſe, and holding a
" Branch of Palm-tree in his Hand, accom-
" panied with a Presbyter and Deacon, who
" aſſiſted him, came near to me, and ſaid,
" Peace be with thee, Brother, be not afraid,
" thou ſhalt not die until thou return in Pro-
" ſperity to thy own See. Riſe and be healed,
" and dedicate this Altar to the Honour of
" God, and the Apoſtles St. *Peter* and St. *Paul*,
" whom thou ſeeſt ſtanding before thee, with
" Maſſes of Thankſgiving. Whereupon I was
" preſently made whole. And being about to
" accompliſh that which I was commanded to
" do, they that were preſent ſaid I was mad.
" So I related all that I had ſeen, to them,
" to the King, and all his People, and
" how I had been cured; and I fulfilled all
" that I was bid to do. Theſe Things hap-
" pen'd in the 753d Year, from the Incarna-
" tion

" tion of our Lord on the Ides of *August*; at " which Time being ſtrengthned by the Power of " *Chriſt*, between the Celebration of the Conſe- " cration of the above-mention'd Altar, and the " Oblation of the Sacrifice, I anointed King *Pipin* " and his two Sons, *Charles* and *Carloman*, Kings " of the *Franks*. Moreover, I laid Hands upon, " and bleſſed *Bertranda* the King's Wife, cloath- " ed with her Royal Mantle, and the Grace of " the Sevenfold Holy Spirit: And the Nobles " of the *Franks* being ſanctified by the Apoſtoli- " cal Benediction, and the Authority delivered " by *Chriſt* to St. *Peter*, obliged themſelves ſo- " lemnly, and proteſted, That neither they, nor " any of their Poſterity, wou'd at any Time " hereafter, preſume to conſtitute any Perſon, " as King over them, but only ſuch as were of " the Race of King *Pipin*.

CHAP. XIV.

Of the Conſtable, *and* Peers *of* France.

BEſides the great Office of *Mayor* of the *Palace* before ſpoken of, there was another which we muſt take Notice of; becauſe it ſeems, in the Memory of our Forefathers, to have ſucceeded in Place of the former: And that was the Office of *Count* of the *King's Stable*; called at firſt, *Comes ſtabuli*; and by Corruption at laſt, *Conneſtabuli*. Now all thoſe who enjoy'd any extraordinary Honours or

Employments in the King's Court, and assisted in the Administration of the Commonwealth, were commonly called *Comites*, *Counts*; which was likewise the Custom of the Ancients, as I have in some other of my Works demonstrated. So *Cicero*, in many Places, calls *Calisthenes*, *Comitem Alexandri magni*. This *Comes stabuli* was in a Manner the same with the *Magister Equitum* among the *Romans*, that is, *General* of the *Horse*; to whom were subject those Keepers of the Horses commonly called *Querries*. *Greg. Turon.* lib. 5. cap. 39. says, —— "The Treasurer of *Clodoveus* being taken out of the City of *Bourges*, by *Cappan*, *Count* of the *Stable*, was "sent in Bonds to the Queen, *&c.* And again, *cap.* 48. where he speaks of *Leudastes*, "—— She took him (says he) into Favour, "rais'd him, and made him Keeper of the "best Horses; which so filled him with "Pride and Vanity, that he put in for the *Con-* "*stableship*; [*Comitatum Stabulorum*] and having "got it, began to despise and undervalue every "Body. From these Quotations it appears, that tho' the Custody of the Horses was a very honourable Employment, yet 'twas much inferior to that of *Constable*. *Aimoinus*, lib. 3. cap. 43. gives the same Account of this *Leudastes*. "—— Being grown very intimate with the "Queen, he was first made Keeper of the "Horse, and afterwards obtaining the Con-"stableship above the rest of the Keepers, he "was (after the Queen's Death) made by "King *Charibert*, *Count* of *Tours*. And *cap.* 70. "*Leudegesilus*, Prefect of the King's Horses, "whom they commonly call *Constable*, being "made General of that Expedition by the "King, order'd the Engines to be drawn

"down,

" down, &c. Also *lib.* 4. *cap.* 95. where he " speaks of *Charles* the Great, —— " The same " Year (says he) he sent *Burchard*, *Comitem* " *Stabuli sui*, which we corruptly call *Constabu-* " *lum*, with a Fleet against *Corsica*——. The Appendix to *Gregory* calls him, *Comestabulum*, *lib.* 11. *Brunechildis* (says he) was brought out of the Village, *ab exporro Comestabulo*.

This being so, *Albertus Krantzius*, lib. Suet. 5. cap. 41. ventures to affirm, that this *Constable* was the same with what the *Germans* call *Mare-* " *schal*. " They named (says he) a *Governor*, " one of the best Soldiers, who might have " the Power of Convocating the *Assembly* of " the Kingdom, and of acting in all Matters " like the *Prince*. Our *Countrymen* call him a " *Mareschal*, the *French* call him *Constable*, &c. This seems the more probable, because I do not remember any Mention to have been made in ancient Times, of a *Mareschal* in our *Francogallia*; so that 'tis very likely to have been an Institution of our latter Kings, accommodated to the Custom of the *Germans*.

That this *Comitatus Stabulorum*, a *Constableship*, had its Rise from the Institution of the *Roman Emperors*, I do not at all question; altho' it grew by Degrees among us from slender Beginnings, to the Height of chief *Governor* of the *Palace*. In former Times that Dignity was a Sort of *Tribunatus Militaris*. *Ammianus*, lib. 26. has this Expression where he speaks of *Valentinian* the Emperor, —— " Having fixed his Stages, or Days " Journeys, he at last entred into *Nicomedia*; " and about the Kalends of *March*, appointed " his Brother *Valens* to be Governor of his " Stables, *cum tribunatûs dignitate*, with *tribuni-* " *tial Dignity*. What Kind of Dignity that was,

we may find in the Code of *Juſtinian*, lib. 1. Cod. *de comitibus & tribunis Schol.* Where 'tis reckoned as a great Honour for them to preſide over the Emperor's Banquets, when they might adore his Purple. Alſo in *lib.* 3. *Cod. Theodoſ. de annon. & tribut. perpenſa*, 29. *Cod. Theod. de equorum Collatione*, & *lib.* 1. *Cod. Theod.* wherein we may find a Power allowed them, of exacting Contribution to a certain Value from the Provincials who were to furniſh War-Horſes for the Emperor's Service.

It now remains that we diſcourſe a little of thoſe Magiſtrates, which were commonly called *Peers* of *France*; whereof we can find no Records or Monuments, tho' our Endeavours have not been wanting. For among ſo great a Number of Books, as are called Chronicles and Annals of *Francogallia*, not one affords us any probable Account of this Inſtitution. For what *Gaguinus*, and *Paulus Æmilius* (who was not ſo much an Hiſtorian of *French* Affairs, as of the *Pope's*) and other common Writers do affirm, to wit, That thoſe Magiſtrates were inſtituted by *Pipin* or *Charlemagn*, appears plainly to be abſurd; becauſe not one of all the *German* Hiſtorians, who wrote during the Reigns of thoſe Kings, or for ſome Time after, makes the leaſt Mention of thoſe Magiſtrates. *Aimoinus* himſelf who wrote a Hiſtory of the Military Atchievements and Inſtitutions of the *Franks*, down to the Reign of *Lewis the Pious*, and the *Appendix*, which reaches as far as the Time of *Lewis the Younger*, being the 27th King, ſpeak not one Word of theſe *Peers* in any Place of their Hiſtories; ſo that till I am better informed, I muſt concur in Opinion with *Gervaſe* of *Tilbury*, who (as *Gaguinus* ſays in the Book which

which he wrote to the Emperor *Otho* the IVth, *de otiis imperialibus*) affirms. That this Inſtitution is firſt owing to King *Arthur* of *Britain*, who ruled ſome time in Part of *France*.

For I ſuppoſe the Original of that Inſtitution to be this; that as in the *Feudal* Law ſuch are called, *Pares curiæ beneficiari*, i. e. *Equal Tenants by Homage of the Court*, or *Clientes ejusdem*, *Clients of like holding*, or *Convaſſalli*, *Fellow Vaſſals*, who hold their *Fiefs* and *Benefices* from one and the ſame *Lord* and *Patron*; and upon that Account are bound to him in *Fealty* and Obedience: juſt ſo King *Arthur* having acquired a new Principality, ſelected *twelve great Men*, to whom he diſtributed the ſeveral Parts and *Satrapies* of his Kingdom, whoſe Aſſiſtance and Advice he made uſe of in the Adminiſtration of the Government. For I cannot approve of their Judgment, who write, that they were called *Peers*, becauſe they were *Pares Regi*, the *King's Equals*; ſince their Parity has no Relation to the *Regal Dignity*, but only to that Authority and Dignity they had agreed ſhould be common among them. Their Names were theſe, the *Dukes of Burgundy*, *Normandy*, and *Aquitain*; the *Counts* of *Flanders*, *Tholouſe*, and *Champagne*; the *Archbiſhops* of *Rheims*, *Laon*, and *Langres*; the *Biſhops* of *Beauvais*, *Noyon*, and *Chalons*. And as the *Pares Curtis*, or *Curiæ*, in the *Feudal* Law, can neither be created, but by the Conſent of the Fraternity; nor *abdicated*, but by Tryal before their Colleagues; nor *impeach'd* before any other Court of Judicature; ſo theſe *Peers* were not bound by any Judgment or Sentence, but that of the *Parliament*, that is, of this imaginary Council; nor could be *elected* into

to the *Society*, or *ejected* out of it, but by their *Fellows in Collegio*.

Now altho' this Magistracy might owe its Original to a Foreign Prince; yet when he was driven out, the succeeding Kings finding it accommodated to their own Ends and Conveniences, ('tis most probable) continued and made use of it. The first Mention I find made of these *Peers*, was at the Inauguration of *Philip the Fair*, by whom also (as many affirm) the Six *Ecclesiastical Peers* were first created.

But *Budæus*, an extraordinary Learned Man, calls these *Peers* by the Name of *Patritians*, and is of Opinion that they were instituted by one of our Kings, who was at the same Time *Emperor* of *Germany*; because, *Justinian* says, those *Patres* were chosen by the *Emperor* quasi *Reipub. patronos tutoresque*, as it were *Patrons* and *Tutors* of the Commonwealth. I do not reject this Opinion of that Learned Person, such a Thing being very agreeable to the Dignity of these *Peers*. For in the Times of the later *Roman Emperors*, we find the *Patrician* Dignity not to have been very unlike that of the *Peers*, because (as *Suidas* assures us,) they were (partly) the *Fathers of the* Republick, and were of *Council* with the Emperor in all weighty Concerns, and made use of the same Ensigns of Authority with the *Consuls*, and had greater Honour and Power than the *Præfectus Prætorio*, tho' less than the *Consul*; as we may learn *ex Justiniani Novellis*; from *Sidon. Apollin. Claudian*; and *Cassiodorus* especially.

But when the *Empire* was transferr'd to the *Germans*, we do not believe this Honour was in use among them. Neither is it likely, that none of the *German* Historians should have made

made the leaſt Mention of it, if any *Patritians* of that Kind had been inſtituted by a *German* Emperor, who at the ſame Time was King of *Francogallia*.

Laſtly, The ſame *Budæus* tells us in that Place, tho' a little doubtingly, that the like Dignity of *Peers* had been made uſe of in other neighbouring Nations, and that in the *Royal Commentaries*, *Anno* 1224, 'tis found written, that a certain Gentleman of *Flanders*, called *Joannes Nigellanus*, having a Controverſy there, appeal'd from the *Counteſs* of *Flanders* to the *Peers* of *France*; having firſt taken his Oath, that he could not expect a fair and equal Tryal before the *Peers* of *Flanders*. And when afterwards the Cauſe was by the *Counteſs* revok'd to the Judgment of the *Peers* of *Flanders*, it was at Length for certain Reaſons decreed, that the *Peers* of *France* ſhould take Cogniſance of it. What the Reaſons were of tranſferring that Tryal, *Budæus* does not tell us; which one verſed in the *Feudal* Laws ſhould never have omitted. But 'tis Time to return to our principal Buſineſs.

CHAP. XV.

Of the continued *Authority and Power of the* Sacred Council, *during the Reign of the* Carlovingian *Family.*

WE have, as we ſuppoſe, ſufficiently explain'd what was the Form and Conſtitution of our Commonwealth, and how great the Authority of the *Publick Council* was during the Reigns of the Kings of the *Merovingian* Family. We muſt now proceed to give an Account of it under the *Carlovingian* Race. And as well all our *own* as the *German* Hiſtorians, give us Reaſon to believe that the very ſame *Power* and *Authority* of the *Orders* or *States* of the Kingdom, was kept entire. So that the laſt Reſort and Diſpoſal of all Things was not lodged in *Pipin*, *Charles*, or *Lewis*, but in the *Regal Majeſty*. The true and proper Seat of which was (as is above demonſtrated) in the *Annual general Council*. Of this *Eginartbus* gives us an Account, in that little Book we have already ſo much commended. Where, ſpeaking of what happen'd after the Death of *Pipin*, he tells us, "that the *Franks* having ſo-"lemnly aſſembled their general Convention, "did therein conſtitute both *Pipin*'s Sons their "Kings, upon this Condition, That they "ſhould equally divide the whole Body of "the Kingdom between them; and that "*Charles* ſhould govern that Part of it which

"their

" their Father *Pipin* had poſſeſs'd, and *Carlo-*
" *mannus* the other Part which their Uncle
" *Carlomannus* had enjoy'd, &c. From whence
'tis eaſily inferr'd, that the *States* of the King-
dom ſtill retain'd in themſelves the ſame Pow-
er, which they had always hitherto been in
Poſſeſſion of (during near 300 Years) in the
Reigns of the *Merovingian* Kings. So that al-
tho' the deceaſed King left Sons behind him,
yet theſe *came not* to the Crown ſo much thro'
any *Right of Succeſſion*, as thro' the *Appointment*
and *Election* of the *States* of the *Realm*. Now
that all the other weighty Affairs of the Nation
uſed to be determined by the ſame *General Coun-*
cil, *Aimoinus* is our Witneſs, *lib.* 4. *cap.* 71.
where he ſpeaks of the War with the *Saxons*.
" The King (ſays he) in the Beginning of the
" Spring went to *Nimeguen*; and becauſe he
" was to hold a General Convention of his
" People at a Place called *Paderburn*, he march-
" ed from thence with a great Army into
" *Saxony*. And again, *cap.* 77. —— Winter be-
" ing over, he held a Publick Convention of his
" People in a Town called *Paderburn*, accord-
" ing to the *yearly Cuſtom*. Alſo *cap.* 79. ——
" And meeting with his Wife in the City of
" *Wormes*, he reſolved to hold there the *General*
" *Council* of his People. In all which Places
he ſpeaks of that *Charles*, who thro' his warlike
Atchievements had acquired the Dominion of
almoſt all *Europe*, and by the univerſal Conſent
of Nations had obtained the Sirname of the
Great; Yet for all that it was not in his Power
to deprive the *Franks* of their *ancient Right and*
Liberty. Nay, he never ſo much as endeavour'd
to undertake the leaſt Matter of Moment with-
out the *Advice* and *Authority* of his *People* and
Nobles.

Nobles. And there is no doubt of it, after *Charles*'s Death, *Lewis* his Son administred the Kingdom upon the same Terms and Conditions. For the *Appendix* to *Aimoinus*, lib. 5. cap. 12. tells us, that when *Charles* was dead, *Lewis* the Emperor, thro' a certain Kind of Foreknowledge, summon'd the General Council of his People to meet at *Doue*, near the *Loire*. And again, *cap.* 38. where he makes Mention of the Articles of Peace, concluded between King *Lewis* and his Cousin *Lewis*, "——— They summoned, "says he, a PLACITUM, and in that "PLACITUM, by the Advice and Consent "of their faithful Subjects, they agreed to observe "and keep the Articles which follow. In which "*Placitum* it was also by common Consent "found convenient, that both Kings should "return with a Guard [*redirent cum scara*] "&c. Also *cap.* 41. where he speaks of *Carloman* the Son of *Lewis the Stammerer*, ——— "And so (says he) he departed from the *Nor*"*mans*, and returned to *Worms*, where he was "on the Kalends of *November*, to *hold his Pla*"*citum*. ——" Also in the following Chapter, where he speaks of *Charles* the Simple, ——— "Whole "Youth (says he) the great Men of *France* "thinking unfit for the Administration of the "Government, they held a *Council* concerning the "State of the Nation.

But it would be an infinite Labour, and indeed a Superfluous one, to quote all the Instances which might be given of this Matter. From what we have already produced, I think 'tis apparent to every Man, that till *Charles* the *Simple*'s Reign, that is, for more than 550 Years, the Judgment and Determination of all the weighty Affairs of the Commonwealth, belonged

longed to the *Great Assembly* of the *People*, or (as we now call it) to the *Convention of the Estates*. And that this Institution of our Ancestors was esteemed *Sacred* and *inviolable* during so many Ages. So that I cannot forbear admiring the Confidence of some Modern Authors, who have had the Face to publish in their Writings, That King *Pipin* was the first to whom the Institution of the *Publick Council* is owing. Since *Eginhart* but *Charles* the *Great*'s own *Chancellor*, has most clearly proved, that it was the constant Practice of the whole *Merovingian Line*, to hold every Year the *Publick Convention* of the People, on the *Kalends* of *May*; and that the *Kings* were carried to that Assembly in a Chariot or Waggon drawn by Oxen.

But to come to a Matter of greater Consequence, wherein the Prudence and Wisdom of our Ancestors does most clearly shew it self. Is it not apparent how great and manifest a Distinction they made between the King and the Kingdom? For thus the Case stands. The *King* is one principal Single *Person*; but the *Kingdom* is the whole Body of the *Citizens* and *Subjects*. "And *Ulpian* defines him to be a "Traytor, who is stirred up with a Hostile "Mind against the Commonwealth, or against "the Prince. And in the *Saxon* Laws, Tit. 3. "'tis written, Whosoever shall contrive any "Thing against the Kingdom, or the King of "the *Franks*, shall lose his Head. — And again, "The King has the same Relation to the King-"dom that a Father has to his Family; a Tu-"tor to his Pupil, a Guardian to his Ward, a "Pilot to his Ship, or a General to his Army. — As therefore a Pupil is not appointed for the Sake of his Tutor, nor a Ship for the Sake of

the Pilot, nor an Army for the Sake of a General, but on the contrary, all these are made such for the Sake of those they have in Charge: Even so the *People* is not designed for the Sake of the *King*; but the King is sought out and instituted for the Peoples Sake. For a *People* can subsist without a King, and be governed by its Nobility, or by it Self. But 'tis even impossible to conceive a Thought of a *King* without a *People*. Let us consider more Differences between them. A *King* as well as any private Person is a Mortal Man. A *Kingdom* is perpetual, and considered as immortal; as Civilians use to say, when they speak of Corporations and aggregate Bodies. A *King* may be a Fool or Madman, like our *Charles* VI. who gave away his Kingdom to the *English*: Neither is there any Sort of Men more easily cast down from a Sound State of Mind, through the Blandishments of unlawful Pleasures and Luxury. But a *Kingdom* has within it self a perpetual and sure Principle of Safety in the Wisdom of its Senators, and of Persons well skill'd in Affairs. A *King* in one Battel, in one Day may be overcome, or taken Prisoner and carried away Captive by the Enemy; as it happen'd to St. *Lewis*, to King *John*, and to *Francis* the First. But a *Kingdom* though it has lost its *King*, remains entire; and immediately upon such a Misfortune a Convention is call'd, and proper Remedies are sought by the chief Men of the Nation against the present Mischiefs; Which we know has been done upon like Accidents. A *King*, either through Infirmities of Age, or Levity of Mind, may not only be misled by some covetous, rapacious or lustful Counsellor; may not only be seduced and depraved

prayed by debauch'd Youths of Quality, or of equal Age with himself, may be infatuated by a filly Wench, so far as to deliver and fling up the Reins of Government wholly into her Power. Few Persons, I suppose, are ignorant how many sad Examples we have of these Mischiefs: But a *Kingdom* is continually supplied with the Wisdom and Advice of the grave Persons that are in it. *Solomon*, the wisest of Mankind, was in his old Age seduced by Harlots; *Roboam*, by young Men; *Ninus*, by his own Mother *Semiramis*; *Ptolomeus* surnamed *Auletes*, by *Harpers* and *Pipers*. Our Ancestors left to their Kings the Choice of their own Privy-Counsellors, who might advise them in the Management of their private Affairs; but such Senators as were to consult in common, and take care of the publick Administration, and instruct the King in the Government of his Kingdom, they reserved to the Designation of the *Publick Convention*.

In the Year 1356: after King *John* had been taken Prisoner by the *English*, and carried into *England*, a Publick Council of the Kingdom was held at *Paris*. And when some of the King's Privy-Counsellors appeared at that Convention, they were commanded to leave the Assembly; and it was openly declared, that the Deputies of the Publick Council wou'd meet no more, if those Privy-Counsellors shou'd hereafter presume to approach that Sanctuary of the Kingdom. Which Instance is recorded in the Great Chronicle writ in *French*, Vol. 2. *sub Rege Johanne*, fol. 169. Neither has there ever yet been any Age wherein this plain Distinction between a *King* and a *Kingdom*, has not been observed. The *King* of

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the *Lacedemonians* (as *Xenophon* assures us) and the *Ephori*, renewed *every Month* a mutual Oath between each other; the *King* swore that he would govern according to the written Laws; and the *Ephori* swore that they would preserve the Royal Dignity, provided he kept his Oath. *Cicero*, in one of his Epistles to *Brutus*, writes: "Thou "knowest that I was always of Opinion, that our "Commonwealth ought not only to be deliver'd "from a *King*, but even from *Kingship*, Scis mihi semper placuisse non *Regem* solum, sed *Regno* liberam rempublicam. — Also in his Third Book *de Legibus*— "But because a Regal State "in our Commonwealth, once indeed approved "of, was abolish'd, not so much upon the Ac"count of the Faults of a *Kingly* Government, "as of the *Kings* who governed; it may seem "that only the Name of a *King* was then abo"lish'd, &c.

CHAP. XVI.

Of the Capevingian Race, and the Manner of its obtaining the Kingdom of Francogallia.

IT has been already shewn, that the Kingdom of *Francogallia* continued in Three Families only, during One Thousand Two Hundred Years. Whereof the first was called the *Merovingian* Family. The second, the *Carlovingian*, from the Names of their Founders or Beginners. For altho' (as we have often told you) the

the Succession to the Kingdom was not conferred as *Hereditary* Right, but according to the Appointment of the *General Council*; yet the *Franks* were so far willing to retain the Custom of their Progenitors the *Germans*, (who as *Tacitus* tells us, chuse their *Kings* for their *Nobility*, and their *Generals* for their *Valour*) that for the most Part they elected such Kings as were of the Blood *Royal*, and had been educated in a Regal Manner, whether they were the Children, or some other Degree of Kindred to the Royal Family.

But in the Year 987, after the Death of *Lewis* the Fifth, who was the 33d King of *Francogallia*, and the 20th of the *Carlovingian* Line, there happened a Migration or Translation of the Royal Scepter, and a Change of the Kingdom. For when there remained no Person alive of the former Family but *Charles Duke of Lotrain*, Uncle to the deceased King, to whom the Succession to the Kingdom, by ancient Custom seem'd to be due; there arose up one *Hugh Capet*, Nephew to *Hatwida*, Sister to the Emperor *Otho* the First, and Son to *Hugh* Earl of *Paris*; a Man of great Reputation for Valour, who alledged, that he being present upon the Place, and having deserved extraordinary well of his Country, ought to be preferr'd to a Stranger, who was absent. For there having happened some Controversies between the *Empire of Germany*, and the Kingdom of *France*, *Charles* upon Occasion had shewn himself partial for the *Empire* against *France*, and upon what Score had lost the Affections of most of the *French*. Whereupon *Charles* having rais'd an Army, made an Irruption into *France*, and took several Cities by Compo-

Compoſition. *Capet* relying on the Friendſhip and Favour of the *Francogallican* Nobles, got together what Forces he could, and went to meet him at *Laon*, a Town in the Borders of *Champagne*; and not long after a bloody Battel was fought between them, wherein *Capet* was routed, and forced to fly into the innermoſt Parts of *France*, where he began again to raiſe Men in Order to renew the War. In the mean Time *Charles* having diſmiſs'd his Army, kept himſelf quiet in the Town of *Laon* with his Wife; but in the Year following he was on a ſudden ſurrounded by *Capet*, who beſieged the Town with a great Army.

There was in the Place one *Anſelmus*, Biſhop of the City. *Capet* found Means to corrupt this Man by great Gifts and Promiſes, and to induce him to betray both the Town and the King into his Hands; which was accordingly done. And thus having obtained both the City and the Victory, he ſent *Charles* and his Wife Priſoners to *Orleans*, where he ſet ſtrict Guards over them. The King having been two Years in Priſon, had two Sons born to him there, *Lewis* and *Charles*; but not long after they all died. So that *Capet* being now Maſter of the whole Kingdom of *France* without Diſpute or Trouble, aſſociated his Son *Robert* with him in the Throne, and took care to get him declared his Succeſſor. Thus the Dignity and Memory of the *Carlovingian* Family came to an End, the 237th Year after the firſt Beginning of their Reign. And this Hiſtory is recorded by *Sigibert* in *Chron.* Ann. 987. as well as the *Appendix*, lib. 5. cap. 45.

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We muſt not omit making Mention of the *cunning Device* made uſe of by *Hugh Capet*, for eſtabliſhing himſelf in his new Dominion: For whereas all the Magiſtracies and Honours of the Kingdom, ſuch as *Dukedoms*, *Earldoms*, &c. had been hitherto from ancient Times conferr'd upon ſelect and deſerving Perſons in the General *Conventions* of the *People*, and were held only during good *behaviour*; whereof (as the Lawyers expreſs it) they were but *Beneficiaries*; *Hugh Capet*, in order to ſecure to himſelf the Affections of the Great Men, was the firſt that made thoſe *Honours perpetual*, which formerly were but *temporary*; and ordained, that ſuch as obtained them ſhou'd have a hereditary Right in them, and might leave them to their Children and Poſterity in like Manner as their other Eſtates. Of this, ſee *Franciſcus Conanus* the Civilian, *Comment.* 2. *Cap.* 9. By which notorious Fact, 'tis plain, that a great Branch of the *Publick Council*'s Authority was torn away; which however (to any Man who ſeriouſly conſiders the Circumſtances of thoſe Times) ſeems impoſſible to have been effected by him alone, without the Conſent of that *Great Council* it ſelf.

CHAP. XVII.

Of the uninterrupted Authority of the Publick Council *during the* Capevingian *Race.*

WE may learn out of *Froiſſard*, *Monſtrelet*, *Gaguinus*, *Commines*, *Gillius*, and all the other Hiſtorians who have written concerning theſe Times, that the Authority of the Publick Council was little or nothing leſs in the Time of the *Capevingian* Family than it had been during the two former Races. But becauſe it wou'd be too troubleſome, and almoſt an infinite Labour to quote every Inſtance of this Nature, we ſhall only chuſe ſome few of the moſt remarkable Examples out of a vaſt Number which we might produce.

And the firſt ſhall be, what happed in the Year 1328. When *Charles* the *Fair* dying without Iſſue Male, and leaving a Poſthumous Daughter behind him; *Edward* King of *England*, and Son to *Iſabella*, Siſter of *Charles*, claimed the Kingdom of *France* as belonging to him of Right. Now there could be no Tryal of greater Importance, nor more illuſtrious, brought before the *Publick Council*, than a Controverſy of this Kind. And becauſe it was decided there, and both Kings did ſubmit themſelves to the Judgment and Determination of the Council, 'tis an irrefragable Argument, that the *Authority* of the *Council* was greater than that of both Kings. This Fact is recorded not only by all our own Hiſtorians, but by *Polydore Virgil*,

Virgil an *English* Writer, *Hiſtor. lib.* 19. Moreover, that great Lawyer *Paponius*, *Arreſtorum*, lib. 4. cap. 1. has left it on Record, (grounded, no doubt, upon ſufficient Authorities,) "That "both Kings were preſent at that *Council*, "when the Matter was almoſt brought to an "open Rupture; by the Advice of the *Nobles*, "a *General Convention* of the *People* and *States* "was ſummon'd: and the *Vote of the Majority* "was, that the Kinſman, by the Father's Side, "ought to have the Preference; and that the "Cuſtody of the Queen, then great with Child, "ſhou'd be given to *Valois*; to whom alſo the "Kingdom was *adjudged* and *decreed* in Caſe ſhe "brought forth a Daughter.——Which Hiſtory *Froiſſard*, Vol. 1. cap. 22. *Paponius* Arreſt. lib. 4. cap. 1. Art. 2. and *Gaguinus* in *Philippo Valeſio*, have publiſhed.

The Year 1356, furniſhes us with another Example; at which Time King *John* was defeated by the *Engliſh* at *Poictiers*, taken Priſoner, and carried into *England*. "After ſo "great a Calamity, the only Hopes left were "in the Authority of the *Great Council*; there"fore immediately a Parliament was ſum"mon'd to meet at *Paris*. And altho' King "*John*'s Three Sons, *Charles*, *Lewis* and *John*, "were at Hand, the eldeſt of which was of "competent Age to govern; yet other Men "were choſen, to wit, *twelve approved Perſons* "out of each *Order* of the *States*, to whom the "Management of the Kingdom's Affairs was "intruſted; and there it was decreed, that an "Embaſſy ſhou'd be ſent into *England* to treat "of Peace with the *Engliſh*. *Froiſſard*. Vol. 1. cap. 170. *Joannes Buchettus*, lib. 4. fol. 118. *Nich. Gillius* in Chron. *Regis Joannis*, are our Authors.

A third Inſtance we have *Anno* 1375, when the laſt Will and Teſtament of *Charles* the Fifth, ſirnamed the *Wiſe*, was produced: By which Will he had appointed his Wife's Brother, *Philip* Duke of *Bourbon*, to be Guardian to his Sons, and *Lewis* Duke of *Anjou* his own Brother, to be Adminiſtrator of the Kingdom till ſuch Time as his Son *Charles* ſhou'd come of Age. But notwithſtanding this, a *Great Council* was held at *Paris*, wherein (after declaring the Teſtament to be void and null) it was decreed, that the *Adminiſtration* of the Kingdom ſhou'd be committed to *Lewis*, the Boy's Uncle: "*But upon this Condition, that he* ſhould be "*ruled and governed* in that *Adminiſtration*, *by* "*the Advice of certain Perſons named and ap-*"*prov'd by the* Council. The Education and Tutelage of the Child was left to *Bourbon*; and at the ſame Time a Law was made, that the Heir of the Kingdom ſhou'd be crown'd as ſoon as he ſhou'd be full 14 Years old, and receive the Homage and Oath of Fidelity from his Subjects.—*Froiſſard*, Vol. 2. cap. 60. *Buchett*, lib. 4. fol. 124. Chro. Brit. Cap.

A 4th Example we have in the Year 1392; at which Time the ſame *Charles* the Sixth was taken with a ſudden Diſtraction or Madneſs, and was convey'd firſt to *Mans*, and afterwards to *Paris*; and there a *General Council* was held, wherein it was decreed by the *Authority of the States*, that the *Adminiſtration* of the *Kingdom* ſhou'd be committed to the Dukes of *Aquitain* and *Burgundy*.—— *Froiſſard*, Vol. 4. cap. 44. is our Author.

5. Neither muſt we omit what *Paponius* (Arreſt. lib. 5. tit. 10. Art. 4.) teſtifies to have been decreed by the *Parliament* at *Paris*, within the Compaſs

pass of almost our own Memories, when *Francis* the First had a Mind to alienate Part of his Dominions; *viz.* "That all Alienations of that "Kind made by any of his Predecessors, were "void and null in themselves; upon this very "Account, that they were done *without the Authority of the Great Council*, and of *the Three "Estates*, as he calls them.

A 6th Example we have in the Year 1426, when *Philip* Duke of *Burgundy*, and *Hanfred* [Dux *Gloceſtriæ*] were at mortal Enmity with each other, to the great Detriment of the Commonwealth; and it was at last agreed between them to determine their Quarrel by single Combat: For in that Contention the *Great Council* interposed its Authority, and decreed that both shou'd lay down their Arms, and submit to have their Controversies *judicially tryed* before the *Council*, rather than *disputed* with the *Sword*. Which History is related at large by *Paradinus*, in *Chron. Burgund. lib.* 3. *Anno* 1426.

A 7th Example hapned in the Year 1484, when *Lewis the Eleventh* dying, and leaving his Son *Charles*, a Boy of 13 Years old; a *Council* was held at *Tours*, wherein it was decreed, "The Education of the Boy shou'd be commit-"ted to *Anne* the King's Sister; but the Administration of the Kingdom shou'd be intrusted to certain Persons *Elected and approved by that Council*; notwithstanding *Lewis*, Duke of *Orleans*, the next Kinsman by the Father's Side, demanded it as his Right. A Testimony of which Transaction is extant in the Acts of that *Council*, printed at *Paris*; and in *Joannes Buchettus* 4th Book, folio 167.

CHAP. XVIII.

Of the Remarkable Authority of the Council *against* Lewis *the* Eleventh.

THE *Power* and *Authority* of the *Council* and the *Estates* assembled, appears by the foregoing Testimonies to have been very great, and indeed (as it were) *Sacred*. But because we are now giving Examples of this *Power*, we will not omit a signal Instance of the *Authority* of this *Council*, which interposed it self in the Memory of our Fathers against *Lewis the Eleventh*, who was reputed more crafty and cunning than any of the Kings that had ever been before him.

In the Year 1460, when this *Lewis* governed the Kingdom in such a Manner, that in many Cases the Duty of a good Prince, and a Lover of his Country, was wanting; the People began to desire the Assistance and *Authority* of the Great *Council*, that some Care might therein be taken of the Publick Welfare; and because it was suspected the King would not submit himself to it, the *Great Men* of the Kingdom (stirred up by the daily Complaints and Solicitations of the *Commons*,) "resolv'd to gather Forces, and raise an *Army*, that (as *Philip de Comines* expresses it) they might provide for "the *Publick Good*, and expose the King's "wicked Administration of the Common-"wealth. They therefore agreed to be ready prepared with a good Army, that in Case the King should prove refractory, and refuse to

follow good Advice, they might *compel him by Force*? For which Reason that War was said to have been undertaken for the Publick Good, and was commonly called the War *du bien public*. "*Choisnes*, *Gillius*, and *Lamore*, have recorded the Names of those Great Men who were the principal Leaders, the *Duke of Bourbon*, the *Duke of Berry*, the King's Brother; the *Counts* of *Dunois*, *Nevers*, *Armagnac*, and *Albret*, and the *Duke* of *Charalois*, who was the Person most concern'd in what related to the Government. Wherever they marched, they caused it to be proclaimed, that their Undertakings were only design'd for the *Publick* Good; they published Freedom from Taxes and Tributes, and sent Ambassadors with Letters to the *Parliament* at *Paris*, to the Ecclesiasticks, and to the Rector of the University, desiring them not to suspect or imagine those Forces were rais'd for the King's Destruction, but only to reclaim him, and make him perform the *Office* of a *Good King*, as the present Necessities of the *Publick* required." These are *Gillius*'s Words, lib. 4. fol. 142.

The Annals intitled the Chronicles of *Lewis the Eleventh*, printed at *Paris* by *Galliotus*, fol. 27. have these Words. —— "The first and chiefest of their Demands was, That a *Convention* of the *Three States* shou'd be held, *because in all Ages it had been found to be the only proper Remedy for all Evils, and to have always had a Force sufficient to heal such sort of Mischiefs.*" Again, Pag. 28. "An Assembly was called on Purpose to hear the Ambassadors of the Great Men, and met on the 24th Day in the Town-House at *Paris*; at which were present some

" Chosen Men of the University, of the Par-
" liament, and of the Magistrates. The An-
" swer given the Ambassadors, was, That *what*
" *they demanded was most just*; and accordingly
" a *Council* of the *Three Estates* was summon'd.—
These are the Words of that Historian. — From whence the Old Saying of *Marcus Antoninus* appears to be most true. —— " Etsi omnes molestæ
" semper seditiones sunt, justas tamen esse non-
" nullas, & propè necessarias: eas vero justissi-
" mas maximéque necessarias videri, cum po-
" pulus Tyranni sævitiâ oppressus auxilium à
" legitimo Civium conventu implorat." Al-
" tho' all Sorts of Seditions are troublesome,
" yet some of them are just, and in a Manner
" necessary; but those are extraordinary just
" and necessary, which are occasion'd when
" the People oppress'd by the Cruelty of a
" Tyrant, implores the Assistance of a Lawful
" Convention.

Gaguinus, in his Life of *Lewis* the *Eleventh*, pag. 265. gives us *Charles*, the Duke of *Burgundy*'s Answer to that King's Ambassadors. " *Charles* (says he) heard the Ambassadors pa-
" tiently, but made Answer, That he knew no
" Method so proper to restore a firm Peace, at
" a Time when such great Animosities, and so
" many Disorders of the War were to be com-
" posed, as a *Convention of the Three Estates*.
" Which when the Ambassadors had by Spe-
" cial Messengers communicated to King *Lewis*,
" he hoping to gain his Point by Delays, sum-
" mon'd the *Great Council* to meet at *Tours*, on
" the Kalends of *April* 1467; and at the ap-
" pointed Time for the *Convention*, they came
" from all Parts of the Kingdom, *&c.*

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The ſame Paſſage, and in almoſt the ſame Words, is recorded in the Book of Annals, *fol.* 64. and in the Great Chronicle, *Vol.* 4. *fol.* 242. where theſe very remarkable Words are further added.—— "In that Council it was appointed, "that certain approved Men ſhou'd be choſen "out of each of the *Eſtates*, who ſhou'd eſtabliſh "the Commonwealth, and take care that Right "and Juſtice ſhou'd be done. But *Gillius* in "the Place above-mention'd ſays: After the "Battel at *Montlehery*, many well-affected and "prudent Men were elected to be *Guardians* "of the *Publick Good*, according as it had been "*agreed* upon between the *King* and the *Nobles*, "among whom the Count of *Dunois* was the "Principal, as having been the chief Promoter "of that Riſing. —— For it had grown into Cuſtom after the Wealth of the *Eccleſiaſticks* was *exceſſively* increas'd, to divide the People into Three *Orders* or *Claſſes*, whereof the *Eccleſiaſticks* made one, and when thoſe *Curators* of the *Commonwealth* were choſen, Twelve Perſons were taken out of each Order. So that it was enacted in that *Council*, that 36 Guardians of the Republick ſhou'd be created, with Power, by common Conſent, to redreſs all the Abuſes of the Publick. Concerning which Thing, *Monſtrelletus*, Vol. 4. fol. 150 writes thus: "In the "firſt Place (ſays he) it was decreed, that for "the re-eſtabliſhing the State of the Common-"wealth, and the eaſing the People of the "Burthen of their Taxes, and to compenſate "their Loſſes, 36 Men ſhou'd be elected, who "ſhou'd have *Regal Authority*; viz. 12 out of "the *Clergy*, 12 out of the *Knights*, and 12 "*skilful* in the Laws of the Land; to whom "Power ſhould be given of inſpecting and en-

"quiring

"quiring into the Grievances and Mischiefs under which the Kingdom laboured, and to apply Remedies to all: And the King gave his Promise *in Verbo Regis*, That whatsoever those 36 Men shou'd appoint to be done, he would ratify and confirm.

Oliver de la March, a *Flemming*, in his History, *cap.* 35. writes the same Thing, and mentions the same Number of 36 *Guardians* or *Curators* of the *Commonwealth*. And he farther adds, "That because the King did not stand to his "Promise, but *violated* his *Faith*, and the *solemn Oath* which he had publickly sworn, a "most *cruel War* was kindled in *Francogallia*, "which set it all in a Flame, and continued near "15 Years. Thus that King's Perjury was punish'd both by his own Infamy, and the People's Destruction.

Upon the whole Matter 'tis plain, that 'tis not yet a hundred Years compleat, since the Liberties of *Francogallia*, and the *Authority* of its *annual General Council*, flourished in full Vigor, and exerted themselves against a King of 15 Years, and great Understanding; for he was above 40 Years old, and of such great Parts, as none of our Kings have equall'd him. So that we may easily perceive that our *Commonwealth*, which at first was *founded* and *establish'd* upon the *Principles of Liberty*, maintained it self in the same free and sacred State, (even by Force and Arms) against all the Power of Tyrants for more than Eleven Hundred Years.

I cannot omit the great Commendation which that most noble Gentleman and accomplish'd Historian, *Philip de Comines*, gives of this Transaction; who in his 5th Book and 18th Chapter, gives this Account of it, which we will

will transcribe Word for Word. —— "But to "proceed: Is there in all the World any King "or Prince, who has a Right of imposing a "Tax upon his People (tho' it were but to "the Value of one Farthing) without their "own Will and Consent? Unless he will "make use of Violence, and a Tyrannical "Power, he cannot. But some will say there "may happen an Exigence, when the Great "*Council of the People* cannot be waited for, the "Business admitting of no Delay. I am sure, "in the Undertaking of a War, there is no "need of such haste, one has sufficient Leisure "to think leisurely of that Matter. And this "I dare affirm, that when Kings and Princes "undertake a War with the Consent of their "Subjects, they are both much more power-"ful, and more formidable to their Enemies. — "It becomes a King of *France* least of any "King in the World, to make use of such ex-"pressions as this — *I have a Power of raising "as great Taxes as I please on my Subjects*; — "for neither he, nor any other, has such a Pow-"er; and those Courtiers who use such Expressi-"ons, do their King no Honour, nor increase "his Reputation with Foreign Nations; but on "the contrary, create a Fear and Dread of him "among all his Neighbours, who will not up-"on any Terms subject themselves to such a "Sort of Government. But if our King, or "such as have a Mind to magnify his Power, "would say thus; I have such obedient and "loving Subjects, that they will deny me no-"thing in Reason; or, there is no Prince that "has a People more willing to forget the "Hardships they undergo; this indeed would "be a Speech that would do him Honour, and

"give

" give him Reputation. But such Words as " these do not become a King; *I tax as much* " *as I have a mind to; and I have a Power of* " *taking it, which I intend to keep.* Charles the " Fifth never used such Expressions, neither " indeed did I ever hear any of our Kings " speak such a Word; but only some of their " Ministers and Companions, who thought " thereby they did their Masters Service: But " in my Opinion, they did them a great deal " of Injury, and spoke those Words purely out " of Flattery, not considering what they said. " And as a further Argument of the gentle " Disposition of the *French*, let us but consider " that *Convention* of the *Three Estates* held at " *Tours*, Anno 1484. after the Decease of our " King *Lewis* the *Eleventh*: About that time " the wholsome Institution of the *Convention* of " the *Three Estates* began to be thought a dan- " gerous Thing; and there were some incon- " derable Fellows who said then, and often " since, that it was High-Treason to make so " much as mention of Convocating the *States*, " because it tended to lessen and diminish the " King's Authority; but it was they themselves " who were *guilty of High-Treason against God,* " *the King, and the Commonwealth.* Neither do " such-like Sayings turn to the Benefit of any " Persons, but such as have got great Honours " or Employments without any Merit of their " own; and have learnt how to flatter and sooth, " and talk impertinently; and who fear all " great Assemblies, lest there they shou'd ap- " pear in their proper Colours, and have all " evil Actions condemned.

CHAP.

CHAP. XIX.

Of the Authority of the Assembly of the States concerning the most important Affairs of Religion.

WE have hitherto demonstrated, that the Assembly of the States had a very great Power in all Matters of Importance relating to our Kingdom of *France*. Let us now consider, what its Authority has been, in Things that concern Religion. Of this our Annals will inform us under the Year MCCC. when Pope *Boniface* the Eighth sent Ambassadors to King *Philip the Fair*, demanding of him, whether he did not hold and repute himself to be subject to the Pope in all Things temporal as well as spiritual; and whether the Pope was not Lord over all the Kingdoms and States of *Christendom*? In Consequence of these Principles, he required of *Philip* to acknowledge him for his Sovereign Lord and Prince, and to confess that he held his Kingdom of *France* from the Pope's Liberality; or that if he refused to do this, he should be forthwith excommunicated, and declar'd a Heretick. After the King had given Audience to these Ambassadors, he summon'd the States to meet at *Paris*, and in that Assembly the Pope's Letters were read, to the Purport following. *Boniface, universal Bishop, the Servant of the Servants of God, to* Philip *King of* France. *Fear God and keep his Commandments.*

mandments. It is our Pleaſure thou ſhouldſt know, that thou art our Subject, as well in things temporal as ſpiritual, and that it belongs not to thee to beſtow Prebends or collate Benefices, in any Manner whatever. If thou haſt the Cuſtody of any ſuch that may be now vacant, thou muſt reſerve the Profits of them for the Uſe of ſuch as ſhall ſucceed therein: and if thou haſt already collated any of them, we decree by theſe Preſents ſuch Collation to be ipſo facto *void, and do revoke whatever may have been tranſacted relating thereunto; eſteeming all thoſe to be Fools and Madmen, who believe the contrary. From our Palace of the* Lateran *in the Month of* December, *and in the Sixth Year of our Pontificate.* Theſe Letters being read, and the Deputies of the States having ſeverally deliver'd their Opinions about them, after the Affair was maturely delibetated, it was ordain'd; firſt, that the Pope's Letters ſhould be burnt in the Preſence of his Ambaſſadors, in the great Yard of the Palace: Then, that theſe Ambaſſadors with Mitres upon their Heads, and their Faces bedaub'd with Dirt, ſhould be drawn in a Tumbrel by the common Hangman into the ſaid Yard, and there be expoſed to the Mockery and Maledictions of the People: finally, that Letters in the King's Name ſhould be diſpatched to the Pope, according to the Tenor following. Philip *by the Grace of God, King of* France, *to* Boniface, *who ſtiles himſelf univerſal Biſhop, little or no greeting. Be it known to thy great Folly and extravagant Temerity, that in things temporal we have no Superior but God; and that the Diſpoſal of the Vacancies of certain Churches and Prebends belong to us of* Regal Right; *that it is our due to receive the Profits of them, and our Intention*

to

to defend out ſelves by the Edge of the Sword, againſt all ſuch, as would any way go about to diſturb us in the Poſſeſſion of the ſame; eſteeming thoſe to be Fools and Brainleſs, who think otherwiſe. For Witneſſes of this Hiſtory, we have the Author of the *Chronicle of Bretayne*, lib. 4. chap. 14. and *Nicholas Gilles* in the *Annals of France*, to whom ought to be join'd *Papon*, in the firſt Book of his *Arreſts*, tit. 5. art. 27.

CHAP.

CHAP. XX.

Whether Women *are not as much debarr'd (by the* Francogallican Law*) from the* Adminiſtration, *as from the* Inheritance *of the Kingdom.*

THE preſent Diſpute being about the *Government* of the Kingdom, and the chief *Adminiſtration* of Publick Affairs, we have thought fit not to omit this Queſtion: Whether *Women* are not as much debarr'd from the *Adminiſtration*, as from the *Inheritance* of the Kingdom? And in the firſt Place we openly declare, that 'tis none of our Intention to argue for or againſt the *Roman* Cuſtoms or Laws, or thoſe of any other Nation, but only of the Inſtitutions of this our own *Francogallia*. For as on the one Hand 'tis notorious to all the World, that by the *Roman* Inſtitutions, *Women* were always under *Guardianſhip*, and excluded from intermeddling, either in publick or private Affairs, by Reaſon of the *Weakneſs* of their Judgment: So on the other, *Women* (by ancient Cuſtom) obtain the *ſupreme Command* in *ſome* Countries. "The (*Britains* ſays *Tacitus* in his "Life of *Agricola*) make *no Diſtinction of Sexes* "in *Government*. Thus much being premiſed, and our Proteſtation being clearly and plainly propoſed, we will now return to the Queſtion. And as the Examples of ſome former Times ſeem to make for the affirmative, wherein the Kingdom of *Francogallia* has been adminiſtred by

by *Queens*, especially by *Widows* and *Queen-Mothers*; So on the contrary, the Reason of the Argument used in Disputations, is clearly against it. For she, who cannot be Queen in her *own Right*, can never have any Power of Governing in another's Right. But here a Woman cannot reign in her own Right, nor can the Inheritance of the Crown fall to her, or any of her Descendants; and if they be stiled *Queens*, 'tis only accidentally; as they are *Wives* to the *Kings* their *Husbands*. Which we have prov'd out of Records for twelve hundred Years together.

To this may be added (which we have likewise prov'd) that not only the sole Power of *Creating* and *Abdicating* their Kings, but also the Right of electing *Guardians* and *Administrators* of the Commonwealth, was lodged in the same *Publick Council*. Nay, and after the Kings were created, the supreme Power of the Administration was retained still by the same *Council*. And 'tis not yet full a hundred Years since 36 Guardians of the Commonwealth were constituted by the same *Council*, like so many *Ephori*: and this during the Reign of *Lewis* the *Eleventh*, as crafty and cunning as he was. If we seek for Authorities and Examples from our Ancestors, we may find several; there is a remarkable one in *Aimoinus*, lib. 4. cap. 1. where speaking of Queen *Brunechild*, Mother to young *Childebert*; "The Nobility of *France* (says he) "understanding that *Brunechild* designed to "keep the chief Management of the Kingdom in her own Hands; and having always "hitherto, for so long a Time disdained to be "subject to a Female Domination, did, *&c.* And indeed it has so happned in the Days of our

Ancestors, that whenever Women got into their Hands the Procuration of the Kingdom, they have been always the Occasion of wonderful Tragedies: Of which it will not be amiss to give some Examples. Queen *Grotildis*, Mother of the two Kings, *Childebert* and *Clotarius*, got once the Power into her Hands; and being extravagantly fond of the Sons of *Clodomer*, (another of her Sons then dead) occasion'd a great deal of Contention, by her endeavouring to exclude her Sons, and promote these Grandsons to the Regal Dignity; and upon that Score she nourished their *large Heads of Hair* with the greatest Care and Diligence imaginable, according to that ancient Custom of the Kings of the *Franks*, which we have before given an Account of. The two Kings (as soon as they understood it) presently sent one *Arcbadius*, who presenting her with a naked Sword and a Pair of Shears, gave her her Choice which of the two She had rather shou'd be applied to the Boys Heads. But She (says *Gregory* of *Tours*) being enraged with Choler, especially when She beheld the naked Sword and the Scissars, answer'd with a great deal of Bitterness—— "Since they cannot be advanced to the King-"dom, I had rather see them dead than shaven— And thereupon both her Grandsons were beheaded in her Presence. The same *Gregory*, (lib. 9. cap. 18. subjoyns—— "This Queen, by "her Liberalities and Gifts conferr'd upon "Monasteries, got the Affections, *Plebis & "vulgi*, of the common People and Moh: "*Date frenos* (says *Cato*) *impotenti naturæ, & "indomito animali, & sperate ipsas modum licen-"tiæ facturas.* Give Bridles to their unruly Na-"tures, and curb the untamed Animal; and "then

" then you may hope they shall set some
" Bounds to their Licentiousness. What an
unbridled Animal and profligate Wretch was
that Daughter of King *Theoderick*, by Birth an
Italian; who being mad in Love with one of
her Domesticks, and knowing him to have
been kill'd by her Mother's Orders, feigned a
thorough Reconciliation, and desir'd in Token
of it to receive the Holy Sacrament of the
Lord's Supper with her Mother; but privately
mixing some Poyson in the Chalice. She at
once gave the strangest Instance both of Im-
piety and Cruelty in thus murdering her own
Mother. The Account given of it by *Gregory*
of *Tours* is this: " They were (says he) of
" the *Arrian* Sect, and because it was their Custom
" that the Royal Family should communicate
" at the Altar out of one Chalice, and People
" of Inferior Quality out of another. (*By the*
" *way, pray take notice of the Custom of Commu-*
" *nicating in both kinds by the People.*) She drop-
" ped Poyson into that Chalice out of which her
" Mother was to communicate; which as
" soon as she had tasted of it, kill'd her pre-
" sently. —— *Fredegunda, Queen-Mother*, and
Widow of *Chilperick the First*, got the Govern-
ment into her Hands; She, in her Husband's
Time, lived in Adultery with one *Lander*; and
as soon as she found out that her Husband *Chil-*
perick had got Wind of it, she had him mur-
dered, and presently seiz'd upon the Admini-
stration of the Kingdom as Queen-Mother,
and Guardian of her Son *Clotharius*, and kept
Possession of it for 12 Years; in the first Place
she poyson'd her Son's Uncle *Childebert*, toge-
ther with his Wife; afterwards she stirred up
the *Huns* against his Sons, and raised a Civil

War in the Republick. And laſtly, She was the Firebrand of all thoſe Commotions which waſted and burnt all *Francogallia*, during many Years, as *Aimoinus* tells us, [lib. 3. cap. 36. & lib. 8. cap. 29.]

There ruled once in *France*, *Brunechild*, Widow of King *Sigebert*, and Mother of *Childebert*. This Woman had for her Adulterer a certain *Italian*, called *Protadius*, whom She advanced to great Honours: She bred up her two Sons, *Theodebert* and *Theodorick*, in ſuch a wicked and profligate Courſe of Life, that at laſt they became at mortal Enmity with each other: And after having had long Wars, fought a cruel ſingle Combat. She kill'd with her own Hands her Grandſon *Meroveus*, the Son of *Theodebert*: She poyſoned her Son *Theodorick*. What need we ſay more? *Date frenos* (as *Cato* ſays) *impotenti naturæ, & indomito animali; & ſperate illas modum licentiæ facturas.* She was the Occaſion of the Death of Ten of the Royal Family: And when a certain Biſhop reproved her, and exhorted her to mend her Life, She cauſed him to be thrown into the River. At laſt, a *Great Council* of the *Franks* being ſummoned, She was judged, and condemned, and drawn in Pieces by wild Horſes, being torn Limb from Limb. The Relators of this Story are, *Greg. Turonenſis*, [lib. 5. cap. 39.] and [lib. 8. cap. 29.] And *Ado* [Ætat. 6.] *Otto Friſing.* [Chron. 5. cap. 7.] *Godfridus Viterbienſis* [Chron. parte 16.] & *Aimoinus* [lib. 4. cap. 1.] Alſo the Appendix of *Gregory of Tours*, [lib. 11.] whoſe Words are theſe: "*Having convicted her of being the Occaſion of the Death of Ten Kings of the* Franks; *to wit, of* Sigebert, Meroveus, *and his Father* Chilperick; Theodebert, *and his Son* Clothair; Meroveus, *the Son*

" *Son of* Clothair, Theodorick, *and his three* " *Children, which had been newly killed, they or-* " *der'd her to be placed upon a Camel, and to be tor-* " *tured with divers ſorts of Torments, and ſo to* " *be carried about all the Army; afterwards to* " *be tied by the Hair of the Head, one Leg and* " *one Arm to a Wild Horſe's Tail; by which being* " *kick'd, and ſwiftly dragg'd about, She was torn* " *Limb from Limb.*

Let us inſtance in ſome others: *Plectrudis* got the Government into her Hands; a Widow not of the King, but of *Pipin*, who ruled the Kingdom whilſt *Dagobert* the Second bore the empty Title of King. This *Plectrudis* having been divorced by her Husband *Pipin*, becauſe of her many Adulteries and flagitious Courſe of Life; as ſoon as her Husband was dead, proved the Incendiary of many Seditions in *France*. She compell'd that gallant Man *Charles Martel*, Mayor of the Palace, to quit his Employment, and in his Place put one *Theobald*, a moſt vile and wicked Wretch; and at laſt She raiſed a moſt grievous Civil War among the *Franks*, who in divers Battels diſcomfited each other with moſt terrible Slaughters. Thus, ſays *Aimoinus*, [lib. 4. cap. 50. & cap. ſequen.] Alſo the Author of a Book called, The State of the Kingdom of *France* under *Dagobert* the Second, has theſe Words: " *When the* Franks *were no* " *longer able to bear the Fury and Madneſs of* " Plectrude, *and ſaw no Hopes of Redreſs from* " *King* Dagobert, *they elected one* Daniel *for their* " *King, (who formerly had been a Monk) and* " *called him* Chilperick. Which Story we have once before told you.

But let us proceed. The Queen-Mother of *Charles* the *Bald*, (whoſe Name was *Judith*) and

and Wife of *Lewis the Pious*, who had not only been King of *Francogallia*, but Emperor of *Italy* and *Germany*, got the Government into her Hands. This Woman ſtirred up a moſt terrible and fatal War between King *Lewis* and his Sons, (her Sons in Law) from whence aroſe ſo great a Conſpiracy, that they conſtrained their Father to abdicate the Government, and give up the Power into their Hands, to the great Detriment of almoſt all *Europe*: The Riſe of which Miſchiefs, our Hiſtorians do unanimouſly attribute, for the moſt Part, to *Queen Judith* in a particular Manner: The Authors of this Hiſtory are the *Abbot* of *Urſperg*, *Michael Ritius* and *Otto Friſing*. [Chron. 5. cap. 34.] "*Lewis* (ſays this laſt) *by Reaſon of the Evil* "*Deeds of his Wife* Judith, *was driven out of his* "*Kingdom*. Alſo *Rhegino* [in Chron. ann. 1338.] "*Lewis* (ſays he) *was deprived of the Kingdom* "*by his Subjects, and being reduced to the Con-* "*dition of a private Man, was put into Priſon,* "*and the ſole Government of the Kingdom, by* "*the Election of the* Franks, *was conferr'd upon* "Lotharius *his Son. And this Deprivation of* "Lewis *was occaſion'd principally through the ma-* "*ny Whoredoms of his Wife* Judith.

Some Ages after, Queen *Blanch*, a *Spaniſh* Woman, and Mother to St. Lewis, ruled the Land. As ſoon as She had ſeized the Helm of Government, the Nobility of *France* began to take up Arms under the Conduct of *Philip* Earl of *Dolegn*, the King's Uncle, crying out (as that excellent Author *Joannes Joinvillenſis* writes) [cap. hiſtor. 4.] "*That it was not to be endured* "*that ſo great a Kingdom ſhou'd be governed by a* "*Woman, and She a Stranger.*" Whereupon thoſe Nobles rejecting *Blanch*, choſe Earl *Philip* to be Admini-

Administrator of the Kingdom. But *Blanch* persisting in her Purpose, solicited Succours from all Parts; and at last determined to conclude a League with *Ferdinand* King of *Spain*. With *Philip* joyned the Duke of *Brittany*, and the *Count de Bureau* his Brother. These, on a sudden, seiz'd on some Towns, and put good Garisons into them. And thus a grievous War was begun in *France*, because the Administration of the Government had been seized by the Queen-Mother: It hapned that the King went (about that Time) to *Estampes*, being sent thither by his Mother upon Account of the War. To that Place the Nobles from all Parts hastily got together, and began to surround the King; not with an Intention (as *Joinville* says) to do him any Harm, but to withdraw him from the Power of his Mother: Which She hearing, with all Speed armed the People of *Paris*, and commanded them to march towards *Estampes*. Scarce were these Forces got as far as *Montlehery*, when the King (getting from the Nobles) joyned them, and returned along with them to *Paris*. As soon as *Philip* found that he was not provided with a sufficient Force of Domestick Troops, he sent for Succours to the Queen of *Cyprus*, (who at the same Time had some Controversy depending in the Kingdom.) She entring with a great Army into *Champagne*, plunder'd that Country far and near; *Blanch* however continues in her Resolution. This constrains the Nobility to call in the *English* Auxiliaries, who waste *Aquitain* and all the Maritime Regions; which Mischiefs arose thro' the Ambition and unbridled Lust of Rule of the Queen-Mother, as *Joinvillæus* tells us at large, cap. 7, 8, 9, 10.

And becauſe many of our Countrymen have a far different Opinion of the Life and Manners of Queen *Blanch*, occaſioned (as 'tis probable) by the Flattery of the Writers of thoſe Times; (For all Writers either thro' Fear of Puniſhment, or, by Reaſon of the Eſteem which the Kings their Sons have in the World, are cautious how they write of Queen-Mothers:) I think it not amiſs to relate what *Joinville* himſelf records [cap 76.] *viz.* That She had ſo great a Command over her Son, and had reduced him to that Degree of Timidity and Lowneſs of Spirit, that She would very ſeldom ſuffer the King to converſe with his Wife *Margaret*, (her Daughter-in-Law) whom She hated. And therefore whenever the King went a Journey, She ordered the Purveyors to mark out different Lodgings, that the Queen might lie ſeparate from the King. So that the poor King was forced to place Waiters and Doorkeepers in Ambuſh whenever He went near his Queen; Ordering them, that when they heard his Mother *Blanch* approach the Lodgings, they ſhou'd bear ſome Dogs, by whoſe Cry he might have Warning to hide himſelf: And one Day (ſays *Joinville*) when Queen *Margaret* was in Labour, and the King in Kindneſs was come to viſit her, on a ſudden Queen *Blanch* ſurprized him in her Lodgings: For altho' he had been warned by the howling of the Dogs, and had hid himſelf (wrapp'd up in the Curtains) behind the Bed; yet She found him out, and in the Preſence of all the Company laid Hands on him, and drew him out of the Chamber: You have nothing to do here (ſaid She) get out. The poor Queen, in the mean Time, being not able to bear the Diſgrace of

ſuch

such a Reproof, fell into a Swoon for Grief; so that the Attendants were forced to call back the King to bring her to her self again, by whose Return She was comforted and recover'd. *Joinville* tells this Story [*cap. hist.* 76.] in almost these same Words.

Again, Some Years after this, *Isabella*, Widow of *Charles* the 6th, (Sirnamed the *Simple*) got Possession of the Government: For before the Administration of the Publick Affairs cou'd be taken care of by the *Great Council*, or committed by them to the Management of chosen and approved Men, many ambitious Courtiers had stirr'd up Contentions: Six Times these Controversies were renewed, and as often composed by Agreement. At last *Isabella* being driven out of *Paris*, betook her self to *Chartres*: There, having taken into her Service a subtle Knave, one *Philip de Morvilliers*, She made up a Council of her own, with a President, and appointed this *Morvilliers* her Chancellor, by whose Advice She order'd a Broad-Seal, commonly called a Chancery-Seal, to be engraven: On which her own Image was cut, holding her Arms down by her Sides; and in her Parents She made use of this Preamble. "Isabella, *by the* "*Grace of God, Queen of* France; *who, by Rea-* "*son of the King's Infirmity, has the Administra-* "*tion of the Government in her Hands*, &c.——— But when the Affairs of the Commonwealth were reduced to that desperate Estate, that all Things went to Rack and Ruin, She was by the *Publick Council* banished to *Tours*, and committed to the Charge of Four Tutors, who had Orders to keep her lock'd up at Home, and to watch her so narrowly, that She shou'd be able to do nothing; not so much as to write a Let-

ter without their Knowledge. A large Account of all this Tranſaction we have in *Monſtrelet*'s Hiſtory. [*Cap.* 161. & *Cap.* 168.]

CHAP. XXI.

Of the Juridical Parliaments in France.

UNder the *Capevingian* Family there ſprung up in *Francogallia* a Kind of Judicial Reign, [*Regnum Judiciale*] of which (by Reaſon of the incredible Induſtry of the Builders up and Promoters of it, and their unconceivable Subtilty in all ſubſequent Ages,) we think it neceſſary to ſay ſomething. A Sort of Men now rule every-where in *France*, which are called *Lawyers* by ſome, and *Pleaders* or *Petty-foggers* by others: Theſe Men, about 300 Years ago, managed their Buſineſs with ſo great Craft and Diligence, that they not only ſubjected to their Domination the Authority of the *General Council*, (which we ſpoke of before) but alſo all the *Princes* and *Nobles*, and even the *Regal Majeſty* it ſelf: So that in whatever Towns the Seats of this ſame *Judicial Kingdom* have been fix'd, very near the third Part of the Citizens and Inhabitants have applied themſelves to the Study and Diſcipline of this wrangling Trade, induced thereunto by the vaſt Profits and Rewards which attend it. Which every one may take Notice of, even in the City of *Paris*, the Capital of the Kingdom: For who can

can be three Days in that City without observing, that the third Part of the Citizens are taken up with the Practice of that litigious and *Pettyfogging* Trade. Insomuch that the General Assembly of Lawyers in that City (which is called the *Robed Parliament*) is grown to so great a Height of Wealth and Dignity, that now it seems to be (what *Augustus* said of old of the *Roman Senate*) no longer an *Assembly* of *Counsellors*, but of *Kings*, and *Governours of Provinces*. Since whoever has the Fortune to be a Member of it, how meanly born soever, in a few Years Time acquires immense and almost Regal Riches: For this Reason many other Cities strove with Might and Main to have the like Privilege of *Juridical Assemblies*. So that now there are several of these famous Parliaments, to wit, those of *Paris*, *Thoulouse*, *Rouen*, *Grenoble*, *Bourdeaux*, *Aix*, and *Dijon*: All which are *fixed* and *sedentary*; besides an Eighth, which is ambulatory and moveable, and is called the *Grand Council*.

Within the Limits of these great *Juridical Kingdoms* there are others lesser, which we may call *Provincial Governments*, who do all they can to imitate the Grandeur and Magnificence of their Superiors; and these are called *Presidial Courts*. And so strong is the Force and Contagion of this Disease, that a very great Part of the *French* Nation spends its Time and Pains in Strife and Law-Suits, in promoting Contentions and Processes; just as of old, a great Number of the *Egyptians* were employ'd by their Tyrants in Building *Pyramids*, and other such useless Structures.

Now the Word *Parliament* in the old Manner of Speech used by our Countrymen, "signifies

"ſies a Debate, or diſcourſing together of ma-
"ny Perſons, who come from ſeveral Parts,
"and aſſemble in a certain Place, that they
"may communicate to one another Matters
"relating to the Publick. Thus in our anci-
ent Chronicles, whenever Princes or their Am-
baſſadors had a Meeting to treat of Peace or
Truce, or other Warlike Agreements; the As-
ſembly ſo appointed was always called a *Par-
liament*; and for the ſame Reaſon the *Publick
Council* of the *Eſtates* was, in our old Language,
called a *Parliament*. Which Aſſembly, being
of great Authority, the Kings of the *Capetin-
gian* Race having a Mind to diminiſh that Au-
thority by little and little, ſubſtituted in its
Place a certain Number of *Senators*, and tranſ-
ferred the Auguſt Title of a *Parliament* to thoſe
Senators: And gave them theſe Privileges: Firſt,
That none of the King's Edicts ſhou'd be of
Force, and ratified, unleſs thoſe Counſellors
had been the *Aduiſers* and *Approvers* of them.
Next, That no Magiſtracy or Employment in
all *France*, whether Civil or Military, ſhou'd
be conferr'd on any Perſon, without his be-
ing *inaugurated*, and taking the *Oaths* in that
Aſſembly. Then that there ſhould be *no Liberty
of Appeal* from their Judgment, but that all their
Decrees ſhould ſtand firm, and inviolable. In
fine, whatever Power and Authority had anci-
ently been lodged in the *General Council* of the
Nation, during ſo many Years together, was at
Length uſurped by that *Counterfeit Council*, which
the Kings took care to fill with ſuch Perſons as
would be moſt ſubſervient to their Ends.

Wherefore it will be worth our while, to en-
quire from what Beginnings it grew up to ſo
great a Height and Power: Firſt, a very mag-
nificent

nificent Palace was built at *Paris*, by Order (as some say) of King *Lewis Hutin*, which in our Ancient Language signifies *mutinous* or *turbulent*. Others say, by *Philip the fair*, about the Year 1314. thro' the Industry and Care of *Enguerrant de Marigny* Count of *Longueville*, who was hanged some Years after on a Gallows at *Paris*, for embezzling the Publick Money. Whoever 'twas that built it, we may affirm, that our *Francogallican* Kings took the same Pains in building up this *litigious Trade*, that the *Egyptian* Monarchs are said to have done in employing their Subjects to build the *Pyramids*; among whom *Chemnis* is recorded to have gathered together 360000 Men to raise one Pyramid. *Gaguinus*, in his History of King *Hutin*'s Life, has this Passage, —— "*This* Lewis *ordained*, "*That the Court of Parliament shou'd remain fix-*"*ed and immoveable in the City of* Paris, *that* "*Suitors and Clients might not be put to the* "*Trouble of frequent Removals.* Now what some affirm, that *Pipin* or *Charlemagn* were the Authors of this Institution, is very absurd, as we shall plainly make appear. For most of the Laws and Constitutions of *Charlemagn* are extant; in all which there is not the least Mention made of the Word *Parliament*, nor of that great *fixed Senate*; he only ordains, That in certain known Places his Judges should keep a *Court*, and assemble the People; which according to his usual Custom he calls a *Placitum*, or a *Mallum*, as [*lib.* 4. *cap.* 35. Legis *Francix*] 'tis written, "*He shall cause no more than three general* Pla-"cita *to be kept in one Year, unless by chance* "*some Person is either accused, or seizes another* "*Man's Property, or is summoned to be a Wit-*"*ness*—. There are many other Laws extant of that

that King's of the like Nature, by which we may observe the Paucity of Law-suits in his Days. And I am clearly of Opinion, that what I find several of our modern Authors have affirm'd is most true, *viz.* that the first Rise and Seeds of so many Law-suits, Calumnies and Contentions in this Kingdom, proceeded from Pope *Clement* the Fifth, who during the Reign of *Philip the Fair*, transferred the Seat of his Papacy to *Avignon*, at which Time his Courtiers and Petty-Poggers, engaging into Acquaintance with our Countrymen, introduced the *Roman* Arts of Wrangling into our Manners and Practice. But not to speak of such remote Times. About the Year of our Lord 1230. reigned St. *Lewis*, as he is plainly called; whose Life *Johannes Joinvilleus* (whom we have often mentioned) has written at large. Out of his Commentary we may easily learn, how few Contentions and Law-Suits were in those Days, since King *Lewis* either determined the Controversies himself in Person, or referred them to be determined by some of his Followers and Companions. And therefore [*cap.* 94.] he thus writes, ——"*He was wont* (says he) *to command Lord* Nellius, *Lord* Soissons, *or my self, to inspect and manage the Appeals which were made to him. Afterwards he sent for us, and enquired into the State of the Cause; and whether it were of such a Nature as could not be ended without his own Intervention. Oftentimes it happed, that after we had made our Report, he sent for the contending Parties, and heard the Cause impartially argued over again. Sometimes for his Diversion he would go to the Park of* Bois de Vincennes, *and sitting down upon a green Sodd at the Foot of an Oak Tree, would com-*

"mand

"mand us to sit by him; and there if any one had "Business, he would cause him to be called, and "hear him patiently. He would often himself pro- "claim aloud, That if any one had Business, or a "Controversy with an Adversary, he might come "near and set forth the Merits of his Cause; "then if any Petitioner came, he would hear him "attentively; and having throughly considered "the Case, would pass Judgment according to "Right and Justice. At other Times he appoint- "ed Peter Fountain and Godfrey Villet to plead "the Causes of the contending Parties. I have "often (says he) seen that good King go out of "Paris into one of his Gardens or Villa's without "the Walls, dressed very plainly, and there order "a Carpet to be spread before him on a Table; and "having caused Silence to be proclaimed, those "which were at Variance with each other, were in- "troduced to plead their Causes; and then he pre- "sently did Justice without Delay. Thus far Jo- inevillers —— By which we may guess at the small Number of Law Suits and Complainants in those Days, and how careful our Kings were of pre- venting the Mischiefs that might arise from such as fomented Controversies. In the *Capitular* of *Charles* the *Great* this Law is extant, —— "*Be it* "*known unto all Persons both Nobility and Peo-* "*ple, by these our Patents, That we will sit one* "*Day in every Week to hear Causes in Person.*

We have the like Testimony in *William Budæus*, a very famous Man, and a Principal Ornament of our Kingdom of *France*. For in his Annotations on the *Pandects* (where he treats of this very Argument, and inveighs against this *Kingdom of Brawlers* and *Petty-Foggers*) he tells us, that he finds in the Regal Commentaries of Venerable Antiquity, (the free

Peruſal of which his Quality did intitle him to
" *That in the Reign of the ſame King* Lewis
" [Anno 1230.] *ſeveral Controverſies aroſe be*
" *tween the King and the Earl of* Britany; *And*
" *that by Conſent (as 'tis probable) of both*
" *Parties, a Camp-Court of Judicature was ſum*
" *moned to meet at* Enceniacum, *wherein ſate a*
" *Judges, not Lawyers, Civilians and Doctors, but*
" *Biſhops, Earls, and Barons. And there the*
" *Earl of* Britany *was caſt, and it was order'd*
" *that the Inhabitants of his County ſhould be ab-*
" *ſolved and freed from the Oath of Allegiance*
" *and Fidelity, which they had taken to him. A-*
" gain, in the ſame King's Reign, [Anno 1259.
" *a Diſpute having ariſen about the County of*
" Clairmont *between the King and the Earls of*
" Poictou *and* Anjou, *a Court of Judicature*
" *compoſed of the like Perſons, was appointed,*
" *wherein ſat the Biſhops and Abbots, the Gene-*
" *ral of the* Dominicans, *the Conſtable, the Ba-*
" *rons, and ſeveral* Laicks. To this he ſubjoyns
" *Yet there were two Parliaments called each Year*
" *at* Chriſtmas *and at* Candlemas, *like as there*
" *are two* Scacaria *ſummoned in* Normandy *at*
" Eaſter *and at* Michaelmas. Thus far *Budæus*;
to whom agrees what we find in an ancient
Book concerning the *Inſtitution of Parliaments*,
wherein this Article is quoted out of the *Con-*
ſtitution of Philip the 4th, Sirnamed the *Fair*
[ex Anno 1302.] —— " *Moreover, for the Con-*
" *veniency of our Subjects, and the expeditious*
" *determining of Cauſes, we propoſe to have it*
" *enacted, that two Parliaments ſhall be held*
" *every Year at* Paris, *and two* Scacaria *at* Rouen:
" *That the* Dies Trecenſes *ſhall be held twice a*
" *Year: and that a Parliament ſhall be held at*
" Tholouſe, *as it uſed to be held in paſt Times,*
" *if*

" if the People of the Land conſent to it: Alſo, " becauſe many Cauſes of great Importance are " debated in our Parliament, between great and " noreable Perſonages; We ordain and appoint, " that two Prelates, and two other ſufficient Perſons, being Laymen of our Council; or at leaſt " one Prelate and one Laick, ſhall be continually " preſent in our Parliaments, to hear and deliberate concerning the above-mentioned Cauſes. —" From which Words we may learn, Firſt, how ſeldom the Courts of Judicature heard Cauſes in thoſe Days. Next, how few Judges ſat in thoſe Parliaments. For as to the other Provinces and Governments of the Kingdom, we have (in the ſame Book) the Conſtitution of *Philip the Fair*, in theſe Words, [Anno 1302.] —— " *Moreover*, " *We ordain that our Seneſchals and Bayliffs* " *ſhall hold their Aſſizes in Circuit throughout* " *their Counties and Bayliwicks once every two* " *Months at leaſt.*

Furthermore, *Badius* in the ſame Place, [Anno 1293.] writes, that *Philip* the *Fair* appointed, that three Sorts of People ſhou'd ſit in Parliament, viz. *Prelates*, *Barons*, and *Clerks mixed with Laymen*: " Since the Laicks (ſays " he) are choſen promiſcuouſly out of the " Knights, and out of other Sorts of People. " Alſo, that the Prelates and Barons ſhou'd ſelect fit Perſons out of that third Eſtate, to " exerciſe every Sort of Judicature; and at the " ſame Time ſhou'd chuſe three Judges, who " ſhou'd be ſent abroad into thoſe Countries " where the written Laws of the Land had " their Courſe, that they might there judge " and determine according to Law. And if " any Queſtion of great Importance were to " be argued, they ſhould take to their Aſſiſtance

" the moſt Learned Men they could get. In which Place, *Budæus* lamenting the Evil Cuſtoms of our Times; that is, this *Kingdom of Lawyers* now in Vogue, breaks out with *Juvenal* into this Exclamation; " *Quondam hoc indigena vivebant more!* —— *So* (ſays he) *may I* " *exclaim, that in Old Times, when this Kingdom* " *flouriſhed, (as may appear by our Money coined* " *of pure fine Gold) there was a plain and eaſy* " *Way of doing Juſtice; there were few Law-*" *Suits, and thoſe not of long Continuance, or in-*" *deed Eternal, as now they are; for then this* " *Rabble-Rout of pretended Interpreters of the* " *Law had not invaded the Publick: neither was* " *the Science of the Law ſtretched out to ſuch* " *an unlimited Extent; but Truth and Equity,* " *and a prudent Judge, endued with Integrity and* " *Innocence, was of more worth than Six hundred* " *Volumes of Law-Books. But now to what a* " *ſad Condition Things are brought, every one* " *ſees, but no Body dares ſpeak out.* [*Sed omnes dicere muſſant.*] Thus far honeſt *Budæus*, a moſt inveterate Adverſary of this Art of Chicanery, upon all Occaſions.

To return to our Purpoſe, of giving an Account upon what Foundations and Beginnings this *Reign of Litigiouſneſs* was firſt raiſed. As *Cicero* writes, that the Old High-Prieſts (by Reaſon of the Multitude of Sacrifices) inſtituted three Aſſiſtants called *Viri Epulones*, altho' they themſelves were appointed by *Numa* to offer Sacrifice at the *Ludi Epulares*: In like Manner, out of a very *ſmall Number* of Parliamentary Judges, (when Law-Suits and Litigiouſneſs increaſed) ſwarm'd this incredible Multitude of *Judges*, and *Spawn* of *Counſellors*. And, in the firſt Place, a great, ſumptuous and magnificent Palace was

built (as we told you before) either by the Command of *Lewis Hutin*, or of *Philip the Fair*: then (from a moderate Number of Judges) three Courts of Ten each, were erected a [*tres decuriæ*] *viz.* Of the *great Chamber* of *Accounts*, of *Inquests*, and of *Requests*. Which Partition *Budæus* speaks of in the above-quoted Place, but more at large *Gaguinus* in his Life of King *Lewis Hutin*.

I must not omit one remarkable Thing that ought for ever to be remembred, which both these Authors have transmitted to Posterity: *viz.* That this Meeting of the Court of Judicature was not *perpetual* and *fixed*, as 'tis now, but *summonable* by the *King's Writs*, which every Year were renewed by Proclamation about the Beginning of *November*: "*And that we may be certain* (says *Gaguinus*) *that the King was the* "*Original and Author of this solemn Convention*; "*the Royal Writs are issued every Year, whereby* "*the Parliament is authorized to meet on the* "*Feast-day of St.* Martin, *that is, on the* 10*th* "*of* November.

Now of the wonderful and speedy Increase of this *Judicial Kingdom*, we have this Instance; That about a hundred Years after its Beginning, that is, in the Year 1455, in the Reign of *Charles* the 7th, we find this Order made by him—— *From the Feast of Easter, till the End of the Parliament, the Presidents and Counsellors ought to meet in their respective Chambers at Six a Clock every Morning: from the Feast of St.* Martin *forwards, they may meet later.*—— And a little after it says, *We judge it very necessary, that the Presidents and Counsellors of the Court shou'd come to Parliament after Dinner, for the Dispatch of Causes, and of Judgments.* This

was

was *Charles* the 7th's Order: But in *Charles* the Great's Reign, who ruled a Kingdom three Times as big, we find a very different Manner of rendring Juſtice; as we may eaſily underſtand by that Law of his, mention'd lib. 4. cap. 74. *Legis Francic.*; "*Let a* Comes, *a Judge* (ſays he,) "*not hold a* Placitum, (*that is, not paſs a Decree*,) *but before Dinner, or Faſting.*

Concerning the Word *Parliament*, and the Authority of that Name, we have this Argument; That when of old a Senate was inſtituted in *Dauphine* with ſupreme Authority, which was commonly called the *Council of Dauphine*; *Lewis* the 11th endeavouring to oblige the *Dauphinois*, who had well deſerved from him, changed the Name of this *Council* into that of a *Parliament*, without adding any Thing to the Privileges or Authority of it. Of which *Guidopappius* is our Witneſs. [Queſt. 43. and again queſt. 554.]

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